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(HANSARD)

Tuesday, June 5, 2018

The Honourable GEORGE J. FUREY,
Speaker

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THE SENATE

Tuesday, June 5, 2018

The Senate met at 2 p.m., the Speaker in the chair.

Prayers.

[*Translation*]

SENATORS' STATEMENTS

CENTRE AQUAKENT

FORTIETH ANNIVERSARY

Hon. Rose-May Poirier: Honourable senators, on the weekend of May 27, 2018, the community of Saint-Louis-de-Kent celebrated the 40th anniversary of the AquaKent Centre. This community centre provides a wide variety of services, including a public indoor swimming pool, a community hall, a racetrack, a soccer field, a tennis court, and several kilometres of cross-country ski and bike trails.

Children and teenagers from the community can go to the centre to learn how to swim, thanks to the work of Laurent Bordage, the centre's first director, who set up swimming lessons for preschoolers and kids up to level 10. A group of volunteers from ParticipACTION take care of the community hall and organize activities for people of all ages.

My husband Donald and I have spent a lot of time with the volunteers organizing activities. This centre is very important to our small rural community and we want to do everything we can to help it succeed.

[*English*]

The AquaKent Center also offers courses from The Royal Life Saving Society of New Brunswick, starting with the Rookie on up to the Bronze Cross levels, as well as the National Lifeguard Service. Over the 40 years, many lifeguards have been trained at the centre and have found employment at the Kouchibouguac National Park. This was definitely a win-win situation.

According to Ms. Line Daigle, manager at the centre for the last 30 years, there are now Zumba classes and Friday night jam sessions where amateur musicians get together to play music. Over the years, the centre has served as a bingo hall, hosted special Diamond nights, youth and adult dances and activities and other fundraising activities for people of all ages.

All of this helps to bring a sense of community to the members of the centre. This is a feeling of belonging that is truly important in all our small towns.

[*Translation*]

According to Ms. Daigle, the centre welcomes over 250 visitors a week and has about 160 supporting members. People come from all over Kent County and as far away as Baie-Sainte-Anne, Rogersville and Cocagne to take advantage of the centre's services.

I would like to thank Mayor Danielle Dugas and her council, centre employees, and particularly the Friends of AquaKent Centre, a group of volunteers under the direction of Dr. Pierre Leblanc, for the time and energy they dedicate to the centre to ensure its future.

I congratulate everyone who is directly or indirectly involved in making the centre work. They are to be commended for doing such great work.

[*English*]

WORLD ENVIRONMENT DAY

Hon. Rosa Galvez: Honourable senators, I rise today to speak on the occasion of UN World Environment Day and Canadian Environment Week. The theme of this year is to beat plastic pollution.

I spoke several weeks ago on the occasion of Earth Day and the detrimental effect of single-use plastics on our natural environment and wildlife. In the next 10 years, production of plastics worldwide is expected to double. Single-use plastic objects are harmful to the environment because they persist for hundreds of years after being of use to us for mere minutes.

In 2014, researchers estimated 87 per cent of seabirds in the Canadian Arctic have ingested some sort of plastic. Scientists now keep records of plastic being ingested by birds, as they may be affected by the chemicals in the plastic they consume.

Great Britain has announced plans to ban plastic straws and other countries are likely to follow. The European Commission plans to ban plastic cutlery, plates, straws, drink stirrers, among other items, which account for 70 per cent of marine litter in Europe. They will also impose measures to oblige producers of plastic packaging to bear the cost of waste management and cleanup.

Closer to home, businesses in Toronto and Prince Edward Island have stopped using disposable straws. Montreal and Victoria have banned single-use plastic bags. Later this week at the G7 in Charlevoix, Quebec, I'm hopeful that the federal government will advocate for an agreement to ban plastics, to lead by example to keep plastics out of the oceans, and to ensure a cleaner environment for generations to come.

[*Translation*]

Honourable senators, I am sorry to report that the Senate is the first place where I've worked that does not have recycling bins in every building or a waste reduction program. Why is that? Every time you throw something in the trash, especially single-use plastics, think about where that object is going. Ask yourselves if you really need it, if it is reusable, and if it is recyclable.

Earth Day reminds us of the little things we can do to help save the planet.

[*English*]

TIANANMEN SQUARE MASSACRE

TWENTY-NINTH ANNIVERSARY

Hon. Jim Munson: Honourable senators, I find it hard to believe that almost 30 years have gone by since the massacre in Tiananmen Square. Let there be no doubt, there was a massacre. I was there.

But if you live in China today, there is no record, absolutely no record of the pro-democracy movement. Talk about a rewrite of history.

On Sunday, the United States urged China to account for the ghosts of Tiananmen. In a statement, U.S. Secretary of State Mike Pompeo spoke about the tragic loss of innocent lives by saying the United States joins others in the international community in calling on the Chinese government to make a full public accounting of those killed, detained or missing. He also said:

> As Liu Xiaobo wrote in his 2010 Nobel Peace Prize speech, delivered in absentia, 'the ghosts of June 4th have not yet been laid to rest' . . . .

The Chinese dissident died in custody last year.

Honourable senators, what has not died is the spirit of those who still seek the truth. Imagine in Hong Kong just two days ago, tens of thousands held a candlelight vigil for the Tiananmen victims. They held candles, sang songs and chanted for democracy and an end to one-party dictatorship.

I wonder how long these voices will be allowed to speak freely, because in Hong Kong the grip of Beijing is slowly and methodically eliminating dissent. Freedom of expression in the media, at universities and in politics is being stifled.

According to Hong Kong Watch, a U.K.-based international human rights organization, more than 100 activists and protesters have been prosecuted.

A young man who was in my office just last year returned to Hong Kong only to be arrested. Even two politicians, Yau Wai-ching and Baggio Leung, legally elected lawmakers in Hong Kong, were arrested in their legislative council chamber and convicted for what was described as illegal assembly in trying to retake their oaths and swearing allegiance to Hong Kong. Imagine this happening inside their legislative building.

Honourable senators, sometimes you have to stand up against the bully. Canada cannot afford to look the other way. Canada has a special relationship with the people of Hong Kong and the people of Hong Kong who live here. The former British colony was returned to Chinese control in 1997 with the promise of one country, two systems, for 50 years.

Honourable senators, on a hot and humid night in June 1989, I told a family who lost a child in Tiananmen that I would never stop speaking out about what I witnessed. I witnessed history, and it wasn't pretty.

• (1410)

How lonely and tough it must be today for the Tiananmen Mothers who, in their bravery and annual open letter, said the Beijing government was guilty of serious disrespect by ignoring their requests for redress. I quote the letter:

> Such a powerful proletarian dictatorship apparatus is afraid of us: the old, the sick, and the weakest and most vulnerable of our society.

The letter was addressed to Chinese President Xi Jinping. Honourable senators, I rest my case for this year.

STATE OF POLITICAL PRISONERS IN TIBET

Hon. Thanh Hai Ngo: Honourable senators, last November 2017, several of us rose in this chamber to support Senator Patterson's inquiry on the human rights situation in Tibet. Senators from both sides of the aisle raised specific cases of gross violations of internationally recognized human rights in Tibet by the hands of the communist Chinese authority.

My speech covered the case of Tashi Wangchuk, a shopkeeper, a Tibetan language activist and a human rights defender who was detained in 2016. Under the pretence that he was "inciting separatism," Chinese authorities held him indefinitely for appearing in a *New York Times* documentary. I rise again today because Tashi was unjustly sentenced to five years in prison on Tuesday, May 22, 2018. This injustice sheds light on the harsh oppression Tibetans continue to endure by the Chinese government for simply being who they are.

[*Translation*]

Honourable senators, the criminalization and suppression of Tibetan culture are evidence of a blatant lack of integrity on the part of China, which still refuses to recognize Tibet as a truly autonomous region and to allow Tibet to have its own say in matters like education, language, and other instruments it could use to preserve its culture.

As a nation that values human rights as an integral part of its multicultural heritage, Canada needs to make it a priority to raise Tibetan issues with the People's Republic of China.

[*English*]

Honourable colleagues, let us acknowledge Mr. Tashi's tenacity in his pursuit of preserving his native tongue and heritage through peaceful activism, and let us aim to emulate the same noble character. Let us demand that Canada call upon China to immediately release and exonerate Tashi Wangchuk and other political prisoners.

VISITORS IN THE GALLERY

The Hon. the Speaker: Honourable senators, I wish to draw your attention to the presence in the gallery of Susan and Robert Gill. They are the guests of the Honourable Senator Bovey.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

Hon. Senators: Hear, hear!

THE HONOURABLE RENÉ CORMIER

CONGRATULATIONS ON HONORARY DOCTORATE

Hon. Nancy J. Hartling: Colleagues, I rise today to pay tribute to one of our very own, Senator René Cormier.

On Saturday, May 26, 2018, René received an honorary doctorate in arts and culture from the Université de Moncton. As it is the only francophone university in our province, this recognition is particularly important to honour contributions to the cultural fabric of bilingual New Brunswick.

René received a doctorate for his body of work as an artistic director, actor, musician and composer. If you have not yet heard him play the piano and sing, you are missing out. I hear he is getting a piano keyboard in his office in the East Block. I can't wait for that. He has many talents, but his dedication to the arts and particularly to francophone and Acadian culture shines through. In addition to his time in theatre, he is an ardent advocate of Acadian and francophone culture. Whether it be as president of the Société Nationale de l'Acadie or as chair of the Commission international du théâtre francophone, his involvement spans over four decades. *Vive l'Acadie!*

Theatre has played an outstanding role in the promotion and reproduction of Acadian culture and identity in New Brunswick, with Caraquet, René's home place, at its heart and soul. Many important francophones have depicted Acadian culture through theatre, including René: Antonine Maillet, author of *La Sagouine*; former senator Viola Léger, who played La Sagouine; and the wonderful author, former Lieutenant Governor of New Brunswick Herménégilde Chiasson.

[*Translation*]

Theatre is poetry that rises from the book and steps onto the street.

[*English*]

It is here that the artistic director embodies the text into an organic whole, transforming what is an otherwise individual experience into something fundamentally social. This metamorphosis takes vision, work and, above all, artistry. I believe this honorary doctorate recognizes René as an artist.

[*Translation*]

My dear René, congratulations. You are amazing. Please keep sharing your artistic talents, because we love the incredible sense of humour, hope, and joie de vivre you bring us. Thank you so much.

ROUTINE PROCEEDINGS

CONFLICT OF INTEREST AND ETHICS COMMISSIONER

2017-18 ANNUAL REPORT TABLED

The Hon. the Speaker: Honourable senators, I have the honour to table, in both official languages, the report of the Conflict of Interest and Ethics Commissioner on the performance of his duties and functions under the *Conflict of Interest Act* in relation to public office holders, for the fiscal year ended March 31, 2018, pursuant to the *Parliament of Canada Act*, R.S.C. 1985,c. P-1, sbs. 90(1)(b).

ARCTIC

BUDGET AND AUTHORIZATION TO ENGAGE SERVICES AND TRAVEL—SECOND REPORT OF SPECIAL COMMITTEE PRESENTED

Hon. Dennis Glen Patterson, Chair of the Special Committee on the Arctic, presented the following report:

Tuesday, June 5, 2018

The Special Committee on the Arctic has the honour to present its

SECOND REPORT

Your committee, which was authorized by the Senate on Wednesday, September 27, 2017, to examine and report on the significant and rapid changes to the Arctic, and impacts on original inhabitants, respectfully requests funds for the fiscal year ending March 31, 2019, and requests, for the purpose of such study, that it be empowered:

(*a*) to engage the services of such counsel, technical, clerical and other personnel as may be necessary; and

(*b*) to travel inside Canada.

Pursuant to Chapter 3:06, section 2(1)(c) of the *Senate Administrative Rules*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that committee are appended to this report.

Respectfully submitted,

DENNIS GLEN PATTERSON
Chair

(*For text of budget, see today's* Journals of the Senate, *Appendix , p. 3585.*)

The Hon. the Speaker: Honourable senators, when shall this report be taken into consideration?

(On motion of Senator Patterson, report placed on the Orders of the Day for consideration two days hence.)

[*English*]

ABORIGINAL PEOPLES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO MEET DURING SITTING OF THE SENATE

Hon. Lillian Eva Dyck: Honourable senators, with leave of the Senate and notwithstanding rule 5-5(a), I give notice that, later this day, I will move:

That the Standing Senate Committee on Aboriginal Peoples have the power to meet on Wednesday, June 6, 2018, at 6:45 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

[*Translation*]

ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STUDY OF THE EFFECTS OF TRANSITIONING TO A LOW CARBON ECONOMY

Hon. Rosa Galvez: Honourable senators, I give notice that, at the next sitting of the Senate, I will move:

That, notwithstanding the orders of the Senate adopted on Thursday, March 10, 2016 and Tuesday, September 26, 2017, the date for the final report of the Standing Senate Committee on Energy, the Environment and Natural Resources in relation to its study on the transition to a low carbon economy be extended from June 30, 2018 to December 31, 2018.

• (1420)

[*English*]

BENEFICIAL OWNERSHIP TRANSPARENCY

NOTICE OF INQUIRY

Hon. Howard Wetston: Honourable senators, I give notice that, two days hence:

I will call the attention of the Senate to beneficial ownership transparency.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, pursuant to the motion adopted in this chamber on Thursday, May 31, 2018, Question Period will take place at 3:30 p.m.

ORDERS OF THE DAY

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, before we start debate on Bill C-45, let me remind you that today we are dealing with issues relating to criminal penalties, including matters such as criminality and youth, criminal penalties for distribution and illicit cannabis.

As you know, speeches and amendments are to only deal with that theme. A senator can speak only once to the third reading motion today, but can also speak once to any amendment or subamendment moved. Each speech is limited to a maximum of ten minutes, including any questions.

There has been agreement that there will be no extensions, so no such request should be made. If there is a request for a standing vote the bells will ring for 15 minutes, and the vote cannot be deferred.

Let me thank you once again, senators, for your cooperation.

[*Translation*]

CANNABIS BILL

BILL TO AMEND—THIRD READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Dean, seconded by the Honourable Senator Dupuis, for the third reading of Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts, as amended.

Hon. Claude Carignan: Honourable senators, I rise today at third reading stage of Bill C-45 in order to address a very worrisome aspect of cannabis legalization, namely, the use of tax havens as a front for organized crime.

The government tells us that one of the objectives of the bill to legalize the use of cannabis is to get organized crime out of this industry. That is a noble objective, but is it realistic? Many experts have told us that organized crime is by definition organized and can come up with very imaginative and creative ways to thwart law enforcement. I'm not saying that we shouldn't address this, on the contrary, but it is important to set realistic targets and to give ourselves the right tools.

A recent report by Statistics Canada estimates that the country's cannabis black market was worth as much as $6.2 billion in 2015. We are dealing with a huge market. The kingpins of this industry aren't going to give up this golden goose so easily. They will learn to adapt.

Take the United States for example. A study released a few weeks ago by the American organization Smart Approaches to Marijuana, or SAM, refutes the Minister of Justice's claims that it will take four years to suppress the black market. The study focused on what is happening in the State of Colorado, which legalized marijuana in 2012. This study was conducted by a group of researchers in four U.S. states that have legalized cannabis — Colorado, Washington, Alaska, and Oregon, as well as the District of Columbia — who found that, on the contrary, organized crime continues to dominate the black market. In 2016 alone, Colorado's police force confiscated 7,116 pounds of marijuana, made 252 criminal arrests, and intercepted 346 deliveries of marijuana to 36 other U.S. states.

The 44-page report produced by SAM states the following:

> The U.S. mail system has also been affected by the black market, seeing an 844% increase in postal marijuana seizures . . . . Narcotics officers in Colorado have been busy responding to the 50% increase in illegal growing operations across rural areas in the state . . . .

The study was reviewed and approved by researchers at University of Colorado in Denver, Harvard Medical School, Boston Children's Hospital, and the University of Connecticut, among others.

Luke Niforatos, Chief of Staff and Senior Policy Advisor at SAM, pointed out the following:

> We have done a lot of research on the consequences of legalization in certain states. We found that Colorado is now at the top of the list in terms of the presence of a black market and illegal exports of marijuana to other states. We also found that 70 per cent of marijuana sales in the State of Oregon were made on the black market after marijuana was legalized in 2014. This data was compiled by the Oregon State Police. We have seen that the illegal market continues to thrive in all states that have legalized pot.

It's clear that organized crime knows how to adapt to changing realities, and the best way to adapt is to enter the legal market by injecting money generated by its illegal activities.

Recent figures from a few months ago have raised eyebrows. We learned that more than half of the cannabis that the Société des alcools du Québec plans to purchase will come from companies funded by tax havens. Quebec has signed contracts with six companies to supply the future Société québécoise du cannabis, a branch of the SAQ, which will have a monopoly over cannabis sales in Quebec.

Three of these companies, which will supply 33,000 of the 62,000 kilograms of marijuana that Quebec is expected to purchase in 2018-19, receive tens of millions of dollars from tax havens, including the Cayman Islands, Barbados and the Bahamas. The companies are MedReleaf, which will supply 8,000 kilograms of cannabis, Aurora Cannabis, which will supply 5,000 kilograms, and Hydropothecary, which will supply 20,000 kilograms.

Anonymous rich investors from tax havens have gambled at least $165 million on authorized Canadian cannabis producers. Whether you are talking about the Cayman Islands, the Bahamas, Belize, Dominica, Aruba, Curaçao, Malta, Barbados, the Isle of Man, the British Virgin Islands, the Marshall Islands, the Seychelles, Panama or Luxembourg, there doesn't seem to be anywhere too sparsely populated or too far away to resist the lure of Canadian cannabis. In total, 35 of the 86 producers authorized by Health Canada — 40 per cent of them — received offshore funding in the past two years.

Honourable senators, I'm sure you will agree that if we want to combat organized crime we must prevent these groups from entering the legal cannabis market anonymously or through tax havens. In order to do that, we must prohibit foreign investment in Canada's cannabis trade, or at the very least ensure that those cannabis producers and their shareholders will be perfectly transparent.

When Marwah Rizqy, Assistant Professor in the Département de fiscalité, École de gestion, at the Université de Sherbrooke, appeared before the Standing Senate Committee on Legal and Constitutional Affairs, she had this to say, and I quote:

> In fact, we do not check who are the true and ultimate beneficiaries of these companies. We don't track them back to the beginning. If we have 10 businesses, the first owns the second, which owns the third, and so on. So there are levels. At the end of the line, we can even find trusts. In the end, we

never check who are the actual licence holders. If the regulations on so-called recreational cannabis look like the regulations on therapeutic cannabis, the loopholes are huge.

Consequently, we need to ensure that we identify the beneficiaries, and that includes parent company shareholders.

MOTION IN AMENDMENT

Hon. Claude Carignan: Therefore, honourable senators, in amendment, I move:

That Bill C-45, as amended, be not now read a third time, but that it be further amended

(*a*) in clause 62, on page 36, by replacing line 17 with the following:

"directly or indirectly, and any other information to be made available to the public by the Minister under section 128.1."; and

(*b*) on page 78 by adding the following after line 9:

"**128.1** The Minister must make available to the public the name of every holder of a licence or permit, including, if the holder is an organization, the names of

(a) its directors, officers and members and any person who controls it, directly or indirectly;

(b) any parent corporation or trust that controls it, directly or indirectly;

(c) the directors, officers and members of and any person who controls its parent corporation, directly or indirectly;

(d) the shareholders of the organization or parent corporation or, in the case of an organization or a parent corporation that is a public corporation as defined in paragraph (a) of the definition *public corporation* in subsection 89(1) of the *Income Tax Act*, the shareholders of the organization or parent corporation that hold more than 5% of any class of shares; and

(e) the directors, officers and beneficiaries of any trust that controls it, directly or indirectly.".

I hope that many of you will support this amendment.

Hon. Senators: Hear, hear!

• (1430)

The Hon. the Speaker: In amendment, it was moved by the Honourable Senator Carignan, seconded by the Honourable Senator Andreychuk, that Bill C-45 be not now read a third time but that it be amended. Dispense? On debate.

Hon. André Pratte: Is there enough time for a question?

The Hon. the Speaker: Senator Carignan's time has expired.

Senator Pratte: Very well.

[*English*]

The Hon. the Speaker: Are honourable senators ready for the question?

On debate.

Hon. Serge Joyal: Honourable senators, I want to bring to your attention the concerns that have been raised at the Legal and Constitutional Affairs Committee regarding the issue that Senator Carignan mentioned in relation to the protection of the licit and legal cannabis market from organized crime. You will remember, of course, the two policy objectives of the government. One is to promote health among Canadians, especially youth, and the second is to exclude organized crime, which controls, according to the testimony we heard at the committee, more than 50 per cent of the cannabis market in Canada.

But what we have heard, which is of greater concern, is the fact that the medical or therapeutic cannabis market has already been invaded by organized crime. In other words, the cannabis you can buy in a store, which is essentially the available cannabis the doctor has prescribed — even that cannabis that you buy legally on the street — is infected by organized crime. It's not me who states that; it's the President of the Canadian Association of Chiefs of Police, Mario Harel, who testified in front of our committee on March 29, 2018. I want to read to you what Chief Harel stated:

> We also ask the Federal Government to enact strict security clearance requirements that would safeguard against criminal organizations becoming licensed growers as has been observed in the medical marijuana regime.

I repeat: ". . . becoming licensed growers as has been observed in the medical marijuana regime."

> The CACP remains concerned with the inclusion of organized criminals as licensed growers/distributors in the new cannabis regime since organized crime has infiltrated the medical marijuana industry. This is a major problem, in our view.

That's what the President of the Canadian Association of Chiefs of Police stated to us two months ago.

I also want to quote from Superintendent Yves Goupil from the RCMP. He is the Director of Federal Policing Criminal Operations. He stated:

> . . . yes, there are organized crime groups that will certainly use tax havens or even so-called beneficial ownership, where they are hiding behind corporate secrecy to invest and get licences to produce cannabis.

In other words, the RCMP and the various police groups in Canada are aware that the legal market of therapeutic cannabis is already infected by organized crime, and there are serious

grounds to be concerned that the new market that will be open for the general consumption of cannabis will also be infiltrated by organized crime.

In an article published in January, *Le Journal de Montréal* gave a list of 35 companies out of the 86 producers that have been authorized to produce cannabis. I have the list here, and I'm going to provide it to you so that you have an idea of how much money has been invested by those hidden funds in fiscal paradises in the various Canadian companies: AbCann Global, Cayman Islands, $12.4 million; Aurora Cannabis, Cayman Islands, $32.5 million; CannTrust Holdings, Bahamas, $549,000; Supreme Cannabis Corporation, $130,000, Bahamas. And there are five others invested also in those companies; I'm just naming the major ones. Cannabis Wheaton Income, Cayman Islands, $20.5 million; Hydropothecary — which was mentioned in the Senate yesterday — Cayman Islands, $15 million, and Bahamas, $751,500. DelShen Therapeutics, $3 million; Cronos Group, $225,000; Newstrike Resources, $70,000 from Singapore; Emblem Cannabis, $8.3 million, and more than seven fiscal paradises have invested in that company. Golden Leaf Holdings, Bahamas, $308,000, and $5.7 million from Cayman Islands; Invictus MD, Seychelles, $765,000; Maricann Group, $9.76 million; the Green Organic Dutchman, $100,000 from Barbados, $115,500 from Bermuda, $553,000 from Cayman Islands, and from the United Arab Emirates, Dominican Republic, Luxembourg, Switzerland, Aruba, Panama, Malta, Virgin Islands, Belize, Marshall Islands — if you want the amount of money listed with these names. Harvest One Cannabis, $600,000 from Luxembourg and four other fiscal paradises. WeedMD, Cayman Islands, $2 million; Delta 9 Biotech, $300,000 from Singapore — and so on, honourable senators.

From the Cayman Islands, more than $250 million has been invested in Canadian companies that have received a permit. This is not an imagined or fabricated story; those are the real figures.

So when I heard Chief Harel, on behalf of the Canadian Association of Chiefs of Police, asking us what I quoted earlier —

> We also ask the Federal Government to enact strict security clearance requirements that would safeguard against criminal organizations becoming licensed growers as has been observed in the medical marijuana regime.

— I really paid attention, because the facts aren't quite clear. At least half of the companies that received a permit have received hundreds of millions of dollars of fiscal paradise investments from people whose identities we don't know at all. No one knows their identities, unless we accept the amendments proposed by Senator Carignan that their identities will be made public. It will be for any Canadian to look into the registry and know the identity of who is selling the product, who is benefiting from its profits and who is reinvesting or sending the profits outside Canada and avoiding taxes.

• (1440)

One of the key features of the regime that the government proposed is to make sure that the benefits are shared with the provinces at 75 per cent, with the Aboriginal people receiving part of it, so that everybody will be in a position to assume the additional social costs that the regime will, of course, trigger once it is implemented.

If we allow almost half of the companies that will get the permits to shift the benefits out of the country and pay minimal taxes of 1 or 2 per cent, it means that the overall aggregate of money available to share with the provinces will be diminished by as much.

It seems to me that there is an element of public good to have the capacity, as is proposed in the amendment of Senator Carignan, to know who those people are who benefit from the regime. There is nothing secret about this.

If we are to establish a regime that will fight organized crime to leave the market and promote legal cannabis, I think it should be legal from the top down, not only from the people who go to the store and buy and pay over the counter, but from all those who will shift the profit somewhere else.

It seems to me that we have to give a lot of credit and weight to the testimony we heard from the RCMP and the Canadian Association of Chiefs of Police to know the identity. We were told that knowing the identity is the key factor in controlling the illicit production of cannabis.

So, honourable senators, I support —

The Hon. the Speaker: I'm sorry, senator, but your time has expired.

Hon. Yuen Pau Woo: Honourable senators, I'm thinking out loud here, having just heard this amendment today. I wish we had received it earlier so we could have spent more time thinking through the intended and unintended consequences of the amendment. There is a lot of appeal to it, I have to say, and in the next few minutes I'm just going to ramble about some of the questions going through my head.

There are at least four different things going on here in this amendment, and both Senator Carignan and Senator Joyal have touched on these disparate issues, some of which are intimately connected and, while all of them overlap, all four are not the same thing and really need some careful distinction.

The first issue, of course, is the existence of tax havens, or let's call them low-tax regimes, which for many of us is a problem because there is a race to the bottom. There is a loss of tax revenue from these so-called tax gap problems which deprive Canada and other higher tax regimes of the revenue that they would have otherwise received. But that is a much bigger problem that obviously goes beyond cannabis industries and the funding of Canadian industry. I'm sure you all know there are many other types of industry in this country that draw funds from tax havens and from low tax regimes. Whatever views we have on it, that is a generic issue that goes beyond cannabis, and we should not conflate all the problems we see in tax havens with this particular bill.

The second issue that is connected to tax havens but is not entirely the same is the question of beneficial ownership. Of course, many tax havens are in place not just because of low tax

regimes but because they hide the identities of the beneficial owners. I know Senator Wetston will be telling us about an inquiry he has now put on the floor and will be discussing soon.

The issue of beneficial ownership, again, is intuitively appealing because transparency is good. More transparency is better than less transparency. But I think we all recognize that knowing who the beneficial owners are doesn't get to the question of whether the beneficial owners are problematic. We will still have a challenge in identifying whether the beneficial owners are good guys or bad guys, and the simple idea that may be put out in this chamber, that beneficial ownership will make everything clear about criminal networks using their proceeds to fund the licit cannabis industry, is a little naive. This may still be a good idea, but we should not pretend in any way that understanding beneficial ownership will solve the problem of spotting the so-called bad guys.

The third issue, which is again connected but not perhaps in the way some of us are thinking, is the fact that, based on testimony, there is apparently already money from criminal organizations in the medical marijuana market and, if the bill goes through, there will be money from criminal networks in the licit cannabis market.

We need to think hard about what this really means. The fact that there is criminal money in the licit market doesn't make the licit market illicit. I think we have to be really clear in understanding that. It doesn't change the fact that when we've legalized the cannabis industry, the money that has gone into it from sources we don't know somehow makes that industry any less legal.

Now, the fact that it came from a criminal network would suggest that the people from whom this money originated are doing criminal activities. These folks are doing criminal activities in other industries that are still illicit. You can imagine: prostitution, trafficking of other illicit drugs and so on. That's where we should be paying our attention: How can our society and law enforcement agencies target the ongoing illicit activities of criminal organizations who are continuing to work in those industries?

That, to my mind, is a slightly tangential issue. I know it's a concern that all of us share, but it will not be addressed by this amendment. That's a different problem. That's criminality by networks doing criminal things in illicit industries that have nothing to do with the legalization of the cannabis industry. I put that out as a third issue that we need to sort out in our own heads.

That really sums up my point as we consider this amendment. I haven't made up my mind on it. I'm really, as I say, speaking on the fly. I wish we had more time to think about this amendment and weigh all the testimony and views and ask for the views of other experts on it. I am concerned about unintended consequences.

But I am sure of one thing: Some of what has been discussed already this afternoon around this amendment is very germane to the bill, some of it is really about other problems we see in our tax regime and in the way international capital works, and some of it has to do with our distaste of criminal networks. But this amendment will not necessarily solve all of those problems, so I encourage all of us to think very carefully as we prepare for the vote.

Hon. Pierrette Ringuette: Would the honourable senator answer a question?

Senator Woo: Yes.

Senator Ringuette: I understand the intent of this amendment and I don't disagree, but I don't think it will achieve what we want to achieve. Even though Senator Joyal has stated a slate of companies or enterprises or investment firms, I don't know them. I don't know their background. I don't know if they are a criminal element or not. So if it's public, I don't even know what they're all about.

I don't think it will give me or any Canadians the tools to achieve what we want to achieve in removing the criminal element.

• (1450)

In your perspective, would it not be better to achieve what we'd like to see achieved, to have a strong recommendation that the minister responsible provide all these details to our law enforcement agencies and seek the origin of these funds and make correction if correction needs to be done to remove criminal elements?

Senator Woo: Thank you, Senator Ringuette, for the question. I certainly agree that when we come up for the two-, three-year reviews and the five-year review by the joint chambers, that should be a key question that we put to the government on which to provide information.

I also agree with your characterization of this beneficial ownership transparency not really answering the question we want answered. Senator Joyal gave us a very impressive, long list of tax havens and the amounts of money that are coming from them. Of course, we cannot presume that these are criminal networks. We may not like the fact that rich people are hiding behind these structures, these special purpose vehicles, in places far away that we have never been to but dream of going to perhaps, and that they are able to deploy money into our industries at will. But reciting a long list of companies and monies coming from the Cayman Islands, the Bahamas, Luxembourg and goodness knows where else is not tantamount to a list of criminal networks investing in our industry. It would be very unfortunate if this chamber were to give that impression because tax havens, whether we like it or not, exist. People use them and it's part of a funding structure.

I'm not defending tax havens. I know we will have another debate soon about tax havens. We will have a debate about beneficial ownership. We need all of that. I'm not sure that trying to tackle those problems through the mechanism of a cannabis bill is the best way to deal with that problem.

Hon. Percy E. Downe: Like others, I didn't intend to speak on this, but just seeing the amendment I must admit I'm quite impressed by it.

The problem, of course, is we do not know if the list Senator Joyal read out from well-known tax havens is representative of criminal elements or not, and that is the very purpose of the amendment — transparency and openness. The fact we don't know hinders our law enforcement agencies, hinders our international tax treaty and hinders the Canadian Revenue Agency. We do not know.

Before the Senate Banking Committee we had Jon Allen of Transparency International, one of many groups simply trying to get Canada to catch up to what many other countries have done for many years in advancing the information of who owns what.

At that meeting he indicated a line that stuck with me: You have to disclose more information to get a library card in Toronto than you do to open a corporation and hide the owners. Imagine that. We have agencies of law enforcement, revenue collection, who try to track down taxes that are owed in this country, and they don't know who owns the company. They're hidden behind walls that we cannot penetrate.

Our country is massively behind other countries. In the last few months and years the European Union has made tremendous advances in this area. Even if we simply copied what they do, we would be light years ahead of where we are now.

On this amendment in particular, we have the transparency we need, we have the information we need and we have all the financial information we'll need. So the law enforcement agencies and others can know if these are criminal activities or not. If this amendment passes, they will then have the information they require to determine what we all want to know: Are these legitimate businesses, or are these businesses controlled by criminal organizations?

The second part, which I believe Senator Joyal mentioned as well, is the actual collection of the revenue. As we all know, it's not illegal to have an account outside Canada. It is, however, illegal not to declare the proceeds from those accounts. In Canada, we may end up with a situation where a host of individuals and corporations, rather than paying the money owed in Canada, will move the money offshore and avoid paying taxes.

Last year the Conference Board of Canada — a very well respected think tank — published a report indicating the tax gap, the difference between what the government is collecting and what they should be collecting could be up to $48 billion. They do not know the amount. We don't know the amount. More importantly, the revenue agency does not know the amount because of this lack of transparency on beneficial ownership and who owns what.

We're now being asked to approve companies in this very important area that we're voting on. Billions of dollars seem to be at stake when you look at the value of these companies, and we don't know where the money is going or who is behind it. In my opinion, the fact that they're from well-known tax havens is highly suspicious but is not proof. This will give our officials the information they need to do the job we all want them to do. We don't want criminal organizations coming in the back door when we will not let them in the front door, which is a major part of the bill, to remove the criminal element from marijuana sales and distribution in Canada.

I congratulate the mover of the amendment and I'll be supporting it.

The Hon. the Speaker: Senator Downe, will you take a question?

Senator Downe: Of course.

Senator Woo: Senator Downe, you've worked on this issue much longer than I have and I know you know the subject much more intimately.

Would I be right in asserting that you would like to see beneficial ownership information and clarity on the tax gap across the entire Canadian economy rather than just for one industry, because presumably the use of tax havens and the use of obscure structures to hide beneficial ownership extends well beyond the cannabis industry?

Senator Downe: Absolutely. The problem, of course, is the Canadian government, for whatever reason, and it's a mystery, refuses to adopt the rules that other countries are moving to quickly. There is no indication that they're prepared to move in the short or long term. There are groups meeting. There are discussions being held. Federal-provincial meetings are being convened. Correcting this problem is not a matter of reinventing the wheel; it's simply looking at what other countries are doing and what is adaptable to Canada.

As I said, it is a mystery to me. I have looked at these files extensively over the years, and the Canadian government has every excuse possible.

On the tax gap, for example, I won't repeat, but everybody knows there is a host of countries around the world that do it. Most of the G8 countries, the OECD countries — Turkey, Switzerland, U.K., the list goes on — even the State of California plus the American government have been doing it for years for a host of reasons — good financial planning reasons — to help their countries collect the revenue required to run their health care, their education and all the infrastructure we take for granted when people pay their fair share of taxes.

The Canadian government resisted that from day one. The Parliamentary Budget Officer threatened to take them to court. We had meetings three or four years ago where they had a legal opinion and he had a legal opinion. They only reluctantly agreed to provide him with the information to measure the tax gap after he threatened to take them to court, and then they coughed it up.

I say that simply as an illustration of the government — the Stanley Cup playoffs are on now — ragging the puck, if you will, not taking any initiative or giving any leadership on this file whatsoever at the expense of Canadians.

If the Conference Board is right in their figures that the tax gap could be up to $48 billion, think of that would mean for Canada. We would have no deficit. We would have opportunity to lower taxes and fund additional programs even if half the money was collected. The country would be in far better shape.

• (1300)

The thing that always annoyed me more than anything is people complain about taxes, but we all understand the collective good of paying taxes. We have a health care system that is outstanding. There are complaints about it, but when you look around the world, who would not want our health care system? We have an educational system and infrastructure. Our problems, compared to the rest of the world, are minor. But it takes a lot of money to keep the social harmony going. It takes a lot of money to keep the infrastructure in place.

For the people who avoid paying taxes in Canada, I always ask: If they or a member of their family becomes ill, do you think they're taking the health care in Panama or in the Bahamas, or are they returning to Canada to take advantage of our health care system? But they don't want to pay the taxes to pay for that. Is that fair in any way?

Senator Joyal again hit the point of how much revenue will we lose? We don't know who owns these companies and we don't know who is behind them, but they use all the tricks in the book to avoid taxes, as companies and individuals have done in the past. Furthermore, our revenue agency and our law enforcement don't have the tools to go after them because they don't know who is behind them. What would the cost to the nation be?

A second and equally valid point is we're trying to keep the criminal element out of marijuana distribution, yet we don't know if they're actually in it or not.

This amendment will actually be very good for a host of other areas in the Canadian economy as well. However, since we're dealing with this bill today, it suits the purpose of what we have before us, which is transparency and openness. Let the sun shine in, if you will, where there is no information available about who these people are from the Cayman Islands or from other tax havens.

When I read the list a few months ago, it struck me what countries these people are from. It's a massive collection of tax havens. It's highly suspicious, but again we have no proof. This will help us find out what is really going on. It may be innocent as the day is long. It may not be. Let's find out.

Senator Pratte: Briefly, I find myself in the same situation as Senator Woo. I just haven't made my mind up. I'm just thinking out loud.I'm wondering whether similar regimes exist for other companies or whether we would be requiring of these companies, which are legal companies, producing legal products, information that we're requiring from other companies that would also be receiving investments that go through tax havens. Tax havens, as Senator Woo has stated, exist and have existed for a long time. I'm wondering whether we're requiring the same from tobacco companies, firearms companies, oil companies, or alcohol companies. If not, why are we requiring so much information from legal companies that are producing legal products?

I'm also looking at what exists in the bill right now for companies that ask for a licence to produce cannabis products. One of the many requirements is that an organization requiring a permit would have to send financial information to the minister and information about its shareholders or members and who controls it directly or indirectly to send to the minister.

Also, an amendment adopted by the Social Affairs Committee says the minister — because it's already provided in the regulations that the minister can ask for a security clearance for anyone playing a major role in the company — may specify, by name or position, any person who must hold a security clearance if the minister is of the opinion that the person performs, has performed or is about to perform activities related to a licence or permit. In other words, the minister can require a security clearance for practically anyone who plays any role in the company.

So there are already safeguards. Whether that is sufficient or not, that's something we have to think about when thinking about this amendment.

The main point is we have to ask ourselves whether it is necessary to ask for something from those companies that is not required from other legal companies that may also be receiving investments from tax havens and other provenances. Thank you very much.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: Senator Woo, I want to join you in thinking out loud, so I hope you haven't made up your mind yet.

The issue raised by Senator Carignan and supported by Senator Joyal has already been discussed extensively in committee. Senator Pratte says that other companies are subject to similar rules. I disagree, because we are in the process of decriminalizing an entire industry. This is not the potato industry. This is not an industry where organized crime is entirely under the control of this product. The government wants to decriminalize a sector. According to *La Presse*, organized crime seems to be slipping into this industry through the back door.

Some say we are going to start keeping records on this industry in the future, but the problem is happening right now. We need to start keeping records immediately, because the problem is already here. Of the companies licensed to produce cannabis in Quebec, 40 per cent are financed with money from tax havens. That is nearly half. To make matters worse, when these companies were called up by reporters investigating the issue, they all refused to answer any questions. Doesn't that set off alarm bells? That tells me these people don't care about transparency. We are facing an industry that seems to have been infiltrated by organized crime through illegal investments, or at least illegal cash. Let's not forget that organized crime, which sells this drug in Quebec, stashed the proceeds in tax havens. Are we seeing illegal money, made by selling drugs to young Quebecers, being pumped back into the industry? We have to think about this carefully. The industry we are trying to decriminalize needs to be transparent. In three, four, or five years, Senator Dean, it will be too late. Organized crime will have retaken control of this industry. According to police representatives who testified before our committee, at least 30 per cent of the marijuana sold tomorrow will be handled by organized crime.

If there is no transparency with respect to investments in this industry, we'll never be able get organized crime out. What is worse, organized crime will try to sell this drug to minors. Don't you think there should be more transparency when it comes to investments in this industry?

[*English*]

Hon. Art Eggleton: Colleagues have made some very compelling reasons for this particular amendment. The list of possibilities in terms of tax havens is something we have talked about here and we all want action taken on it. I don't think there's any doubt about that whatsoever.

The difficulty with a motion like this is it gets presented at the last minute and, as Senator Woo asked, what are the unintended consequences of it?

I wanted to ask a question of Senator Joyal and Senator Carignan, but they ran through their 10 minutes of time so I didn't get an opportunity to do that.

This isn't done generally with other corporations; that is, the making of it publicly. I can understand the government getting this information. The government should get every bit of this information and should be able to flesh out the tax havens or the illicit operators. There's no doubt about that. But we don't make all of that information on other corporations public, either private corporations or publicly traded corporations. Are there some privacy concerns? What are the unintended consequences of it?

• (1510)

We were obviously interested in this issue when it was at the Social Affairs Committee, so we asked the questions of the government with respect to it. Mr. Blair, the point person on this, said:

> I would like to draw your attention to one thing. This bill will require the organizations that acquire and maintain licences for the production and processing of cannabis submit to enhanced financial transparency. Health Canada can obtain the records of these financial transactions and the investments. It's built right into the bill.

In fact, there is a requirement that the name of the licence holder will in fact be made public. All of this additional information, yes, the government should have it, but should it be made public? What are the consequences of all of that?

I certainly agree with the endeavour to get people using illicit funds out of any kind of licensed position on cannabis production, but I think we need to have a better understanding of the consequences of all of this.

Might I add one other thing? Senator Carignan, of course, because of his position, will paint the bleak picture of what's happening in Colorado and other parts of the United States and will draw on the witnesses that back up the information, but there are other witnesses, on the other side of the coin, who have a very different view.

There's one aspect, for example, in Colorado, where there has been some increase in organized crime, but it's people coming from out of state who are then sending shipments back into the state they're from. There are no border controls between the two states. You can easily do that, whereas in Canada you would be subject to criminal penalties if you tried to export outside of the country. A lot of the other statistics, I think, are refuted by very notable figures in the government and people who have been involved in the academic community in the analysis of what is happening in Colorado and other places. I don't buy all of that.

But certainly tax havens, yes, we want them out. Is this the means to do it? I don't know. We really should be taking more time to consider these things. That's why I wanted these resolutions put at committee. This resolution wasn't put at committee. Instead it's being put here for the first time, and it puts people in an awkward position in trying to understand the unintended consequences.

Hon. Tony Dean: To add to the debate very briefly, I think we're talking a lot about additional things that we could do, as Senator Eggleton points out, not pausing perhaps quite enough to look at the requirements, rigid as they are, that are already present in the licensing requirements for cannabis companies. Licensed companies are rigorously screened. All key personnel, officers and directors at each company must undergo security screening and be granted a clearance prior to a licence being issued. Under the new regulatory framework, individuals in key positions to direct or control a licensed business, such as directors of a parent company and site owners, would also be required to hold valid security clearance.

These provisions, unlike the discussion we're having today, have been tested by the drafters for Charter compliance and privacy compliance, which presumably we haven't had the ability to do here. We don't want to run into something to find out we're not in compliance with privacy laws afterwards.

I'd also point out there's a focus on securities law here. These companies are not immune to the disclosure requirements and financial security requirements of other companies in Canada. They're not getting a free pass. They're already regulated in exactly the same way as other companies, and that includes that public companies are required under income tax to report when shareholders own more than 10 per cent of shares. That must be disclosed. That's not as tight as the 5 per cent mentioned in the motion, but it's pretty rigid.

I'm reminding us that we've learned from other jurisdictions. We've rested on current compliance laws, income tax and disclosure laws, and the government has put in place a rigorous security testing and compliance regime that, frankly, is not required, I believe, of many of the hundreds if not thousands of other companies and other businesses that receive investments from some of the tax havens that have been mentioned earlier.

The Hon. the Speaker: Senator Wetston, on debate.

Hon. Howard Wetston: Yes, Your Honour. Thank you. I felt it important to rise on this most recent issue, as I will be speaking on the matter of beneficial ownership that has been discussed. I feel like we're in pre-study of my discussion of beneficial ownership, which is forthcoming.

I simply wanted to point out that under Canadian securities laws, as just discussed by Senator Dean, the CSA, Canadian Securities Administrators, has what is known as an early warning requirement so that any security holder that advances their interest in a public corporation — this applies to all 13 securities regulators across Canada; it's a CSA requirement — must disclose publicly the ownership of those particular shares or securities. Many companies or shareholders reach the point of 9.9 per cent and don't go over it because they don't want to have it disclosed publicly. When they hit the 10 per cent mark, it must be disclosed. It applies to all public companies in whatever area of activity they are engaged. If they go above, there are 2 per cent increments. If you reach 20 per cent, then the takeover bid rules apply, which is also further public disclosure to all shareholders in the corporation.

Rather than speaking directly to the amendment, which probably I should, obviously I have some sympathy to any matter of transparency regarding beneficial ownership, whether it be with marijuana companies or other companies, which will obviously address issues of money laundering, organized crime, real estate investment, et cetera.

I simply want to point out to my colleagues here in the Senate that this 10 per cent early warning requirement is for all public companies and must be disclosed publicly.

The Hon. the Speaker: Are senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Carignan, seconded by the Honourable Senator Andreychuk, that Bill C-45 be not now read a third time but that it be amended in clause 62 — may I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "yeas" have it.

And two honourable senators having risen:

The Hon. the Speaker: It will be a 15-minute bell. Unfortunately, honourable senators, the bell will have to be interrupted for Question Period at 3:30p.m. The bells will stop ringing at 3:30p.m. Following a 40-minute Question Period, they will ring for 2 minutes to complete the 15-minute ringing of the bell to take the vote.

Call in the senators.

• (1530)

[*Translation*]

QUESTION PERIOD

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, for Question Period today we have the Honourable Mélanie Joly, M.P., Minister of Canadian Heritage. Welcome, minister.

Pursuant to the order adopted by the Senate on December 10, 2015, to receive a Minister of the Crown, the Honourable Mélanie Joly, Minister of Canadian Heritage, appeared before honourable senators during Question Period.

MINISTRY OF CANADIAN HERITAGE

PARLIAMENT HILL HOCKEY RINK

Hon. Pierre-Hugues Boisvenu: Good afternoon, minister, and welcome to the Senate of Canada.

On Friday, Canadians were surprised to learn about what might well be called "extravagant" expenses related to operating the Parliament Hill hockey rink. Apparently it cost close to $100,000 per day for a total of $8 million.

I am sure you also remember Brock Blaszczyk, a Canadian Armed Forces veteran who lost a leg in combat and who, in February, criticized the Prime Minister because he had to go to court to get any support at all. The Prime Minister told him that his government could not do anything more for veterans.

Minister, how do you reconcile your spending on the ice rink, which I would call pointless, with the Prime Minister of Canada's statement that veterans are asking for too much?

Hon. Mélanie Joly, P.C., M.P., Minister of Canadian Heritage: I would like to begin by telling the honourable senator what an amazing success Canada 150 was. It was a success because over 28 million Canadians participated in activities across the country. It was also a success because it stayed within its initial budget of $200 million, which was actually unchanged from the Harper government's budget.

Basically, we are very happy that thousands of people from coast to coast took part in the Canada 150 festivities. We are also proud to say that it was the news story that received the best media coverage.

Finally, regarding the skating rink, 150,000 people visited Parliament Hill and enjoyed their experience.

[*English*]

MINORITY LANGUAGE SERVICES

Hon. Judith Seidman: Good afternoon. Minister, in 2016, your department launched a review of the Official Language Regulations for Communications and Services that is planned to be completed in 2019. The regulations will specify the circumstances and criteria under which a federal office must provide bilingual services by taking into account the vitality of minority language communities, including the English-speaking community of Quebec.

But, in the meantime, recent consultations by your department found that it is difficult for English-speaking Quebecers to access federal program funding due to systemic barriers and that the bureaucracy was standing in the way of equitable treatment for Quebec anglophones.

Why is it taking so long to review the regulations? Are you concerned that English-speaking Quebecers are suffering from this unreasonable delay?

Hon. Mélanie Joly, P.C., M.P., Minister of Canadian Heritage: My colleague, the President of the Treasury Board, and I are both working on modernizing our regulations. I also look forward to the Senate study on modernizing the Official Languages Act, which is extremely important as well.

That being said, we came up with a historic investment to support our Official Languages Act, $1.7 billion over five years. This is the largest amount we have given in order to really support the vitality of our linguistic communities across the country. We've already awarded money for the English-speaking minority of Quebec, $5 million in particular, in order to really support this important community, especially outside of Montreal, where they're facing challenges because they're in rural contexts.

Also, we note the importance of the Quebec government itself, recognizing the importance of their own English-speaking minority, which they have been doing by creating a first English-speaking minority secretariat to support linguistic rights, which are so fundamental to who we are as Canadians and for this particular minority.

[*Translation*]

REGULATION OF INTERNET SERVICES

Hon. Serge Joyal: Welcome, minister. I will call upon your legal training and remind you of two Supreme Court of Canada rulings from June 22, 2017, about a year ago, in *Douez v. Facebook* and *Google Inc. v. Equustek Solutions Inc.*

The Supreme Court stated the following:

. . . there was gross inequality of bargaining power between [Internet service providers and consumers].

It added that upholding constitutional rights is the government's responsibility, and I quote:

. . . because these rights play an essential role in a free and democratic society and embody key Canadian values.

In other words, the Supreme Court told the federal government that it had both the power and the responsibility to take steps to bring some balance to the relationship between an oligopoly and ordinary consumers.

Minister, why can't your government make the same decision that the European Union's Council of Ministers made one year ago, on May 23, 2017, to increase European quotas in Netflix's catalogue to 30 per cent?

Why can't your government do what other European governments have done on the same legal basis? Is it because of a lack of political will or simply because of a lackadaisical attitude when it comes to the Internet market?

Hon. Mélanie Joly, P.C., M.P., Minister of Canadian Heritage: Thank you for your question, senator. Internet giants play a fundamental role in our cultural ecosystem, and I have made that a priority since I first took office. I held the first consultations to determine how to protect and promote Canadian content in the digital age. We also introduced the first cultural policy that recognizes that we need to modernize the Broadcasting Act and the Telecommunications Act.

Just today, senator, I announced that we are going to modernize the Broadcasting Act, which has not been changed since 1991, when the Internet was not yet part of our lives. We have four objectives for the modernization of that act.

First, all the players who benefit from the system, including Internet giants, must contribute. There are no free passes. Second, we want to strengthen CBC/Radio-Canada's mandate, which is included in the Broadcasting Act, particularly in a context where Internet giants are present. We must also ensure that we have a platform that will allow us to share our culture with the country and throughout the world. Third, we want to strengthen the CRTC's mandate, which is also included in the Broadcasting Act. What does that mean? It means that, at a time when the industry is facing so many changes, we must strengthen

our institutions rather than weakening them. Finally, we want to ensure the sustainability of local media and journalism because the Broadcasting Act imposes obligations on broadcasters to support local news content.

That is a huge undertaking since the act has not been reviewed in 30 years. We have appointed seven extremely qualified individuals who are tasked to come up with the outline for new legislation that will address the issue you raised.

The Hon. the Speaker: Excuse me, senator, but if you have another question, I will add your name to the list for the second round of questions if we have time.

Senator Joyal: Yes, of course.

• (1340)

CANADIAN HUMAN RIGHTS MUSEUM—FUNDING

Hon. Marilou McPhedran: Thank you, minister, for joining us today. My question is on the recent report of the Auditor General on the Canadian Museum for Human Rights in Winnipeg, Manitoba. The CMHR is the only national museum dedicated to human rights. I am pleased to have worked with the museum as a professor of human rights for the past eight years.

[*English*]

Minister, as a senator from Manitoba, I thank you for the support from this government that will allow the Human Rights Museum to remain world class, but I do have a question.

Now that some other countries, such as Sweden, are starting to plan for similar national museums dedicated to human rights, will you be able to commit to sustainable operating funds for the Canadian Museum for Human Rights at the current level?

Hon. Mélanie Joly, P.C., M.P., Minister of Canadian Heritage: Thank you for your hard work and advocacy on behalf of the museum and on behalf all Manitobans and Canadians who are in favour of us supporting human rights in this country.

Obviously, the Canadian Museum for Human Rights is extremely important, and we know it was systematically underfunded under the past government. That is why, in the last budget, we committed to balancing its budget by having $35 million more to get rid of its debt.

Of course, we will not go into the operations of the museum. Why? We believe as a government that we need to respect the independence of our museums.

The Canadian Museum for Human Rights has the right budget. They now have new members on their board, and we must make sure that, ultimately, this important museum and cultural institution is left with its entire independence and power to fulfill its mission.

ARTS AND CULTURE LEGISLATION

Hon. Patricia Bovey: Thank you, Madam Minister, for being with us today. I know you understand the very real importance of the arts in every aspect of society, and the diversity and complexity of the modes of creation, presentation and business models which make the arts and culture the success they are.

My question relates to timelines and completion of several key pieces of legislation and policy, particularly the Copyright Act, the Cultural Property Export and Import Act and the Canadian museums policy.

Can you tell us when these consultations will be undertaken, their projected completion date, and when we might expect to see the resulting reports and revised legislation?

Hon. Mélanie Joly, P.C., M.P., Minister of Canadian Heritage: First of all, on the copyright front, this is an important file for our government. We're committed to providing a new Copyright Board reform, which I'm working on with my colleague, the Minister of Innovation. Ultimately, we want our creators to be paid faster — and not have money stay in the bank — and also to be paid at the 2018 rate.

Two committees in the other place, which I'll call the House of Commons, are right now studying the Copyright Act reform. They are the Industry, Science and Technology Committee as well as the Heritage Committee. The Heritage Committee is looking specifically at fairness to creators, which is so fundamental to our entire system. That was clearly affected by the last Copyright Act reform done by the former government.

I look forward to their recommendations and, of course, moving along on this important file.

Regarding the export board, we came with new nominations for the board, which is so important. Because of my and my team's leadership, we've appointed 110 people on the boards of our 17 agencies. Now with the right leadership, we're convinced that we will be able to work with the export board to have a very good policy.

As for the museum approach, my position in the museum sector is one of principle. We need to defend the independence of our museums and our cultural institutions. Seventy years ago after World War II when we started doing our cultural policies in this country, we decided that the state had no place influencing our cultural institutions. Our cultural institutions need to stay at arm's length from the government to prevent them from being propaganda tools for the government.

That's why every time we look at our cultural institutions, we respect their independence.

[*Translation*]

EMBASSY IN ARMENIA

Hon. Leo Housakos: Good afternoon, minister, and welcome to the Senate. During the 2015 federal election campaign, you met with representatives of the Armenian National Committee of Quebec at an official dinner on September 16. During that event, you declared your official support to the Armenian community and you committed to establishing a Canadian embassy in Armenia, as did the candidates from the other parties. Ten days later, you reiterated that commitment in a statement written by yourself and provided on Liberal Party of Canada letterhead. In April 2018, during a meeting with His Excellency Armen Yeganian, Ambassador of the Republic of Armenia to Canada, the ambassador raised the issue. According to him, you replied that your government would keep all its election promises. By the way, last week, when I asked yet again for clarification on the matter from the Government Representative in the Senate, he told me that this was not the right time to open an embassy in Armenia.

My question is as follows: did you make that promise just to benefit from the political influence of the Armenian community, knowing full well that it would never come to fruition, or is this just a failure on your part?

Hon. Mélanie Joly, P.C., M.P., Minister of Canadian Heritage: I am rather surprised that the Senate appears to be just as partisan as it was in the past, when we thought it was supposed to be now more independent.

That said, the Armenian community has my full support. I am a friend of the Armenian community, since many of my constituents in Ahuntsic—Cartierville are members of the Armenian community, just as I am a friend of the 30 other communities I represent, including the Greek community, which is of course the community the honourable senator belongs to. I've had a number of discussions with the former ambassador and the new ambassador, and I've also announced that I will be in Armenia next fall with the Organisation Internationale de la Francophonie. I will be pleased to speak with all pertinent parties at that time. Thank you.

[*English*]

COPYRIGHT BOARD

Hon. David Tkachuk: A year and a half ago, the Senate Banking Committee released a report called *Copyright Board: A Rationale for Urgent Review*. I was chair of the committee at the time, and in that capacity Minister Bains wrote in reply to the committee report that notwithstanding the review of the act, officials at the board and at the Department of Canadian Heritage are actively working in close collaboration with his department to examine and develop options to improve timeliness of the board's work and to enhance the effective fulfilment of its mandate. You were copied on that letter, minister. In August 2017, Michael Geist reported in his blog that the Canadian government is proposing the most radical changes to the Copyright Board in decades and that you hoped to introduce these changes in early 2018.

It is now mid-2018, and the closest we have gotten to any news was an aborted session last week in which Minister Bains' and your parliamentary secretaries showed up to provide us — a number of senators — with what we thought was a briefing, but instead they expected senators to brief them. It was a rather bizarre and unprepared meeting.

Minister Joly, our report was pretty straightforward and definitive. The board requires a radical reset, or, as one senator put it, blow the thing up and start over. Minister, what has taken so long for your government to deliver the Copyright Board reform package, and why would the board officials themselves be involved in your deliberations since they are the problem?

• (1550)

Hon. Mélanie Joly, P.C., M.P., Minister of Canadian Heritage: Well, we believe that reform of the Copyright Board must be done with all stakeholders in the sector, and obviously we've conducted extensive consultation.

My colleague and I are committed to making sure that reform of the Copyright Board is done in the context of our mandate, and this is exactly what we'll be doing.

[*Translation*]

BROADCASTING TAX POLICY

Hon. Dennis Dawson: Minister, I should mention that at this morning's meeting of the Standing Senate Committee on Transport and Communications, we discussed *Close the Loophole! The Deductibility of Foreign Internet Advertising*, the report prepared by the Friends of Canadian Broadcasting.

First of all, congratulations on your announcement. Good news is always welcome. We are thrilled to hear it, but we still need to wait 18 months for a report to be released and then for a bill to be introduced.

In the meantime, we know that the Income Tax Act contains a loophole that, as my colleague, the Honourable Senator Joyal, said, allows companies like Google and Facebook to keep $70 million in advertising revenue. These ads used to appear in newspapers and on various Canadian broadcasting networks. Now, the tax deductibility these companies enjoy encourages them to advertise in the United States instead of through Canadian newspapers and broadcasters.

All we want is for this privilege to be eliminated so that this advertising revenue can be reinvested in Canada. I understand that this is an area of shared jurisdiction with the Department of Finance, but we think it is important to deal with this issue as quickly as possible, in the hope of getting a report in 18 months.

Hon. Mélanie Joly, P.C., M.P., Minister of Canadian Heritage: I thank my Senate colleague for his question. We are in the process of modernizing three laws, namely the Broadcasting Act, the Telecommunications Act, and the Radiocommunication Act. These acts alone represent a $67-billion industry employing hundreds of thousands of people. Giving an expert panel 18 months to come to grips with these laws is very ambitious. We've asked the country's top experts to

come up with solutions that essentially focus on the 14 priorities set out in the panel's terms of reference. The panel includes experts like Janet Yale, Monique Simard, Pierre Trudel and Peter S. Grant.

In addition, I understand my colleague's concerns regarding the media. We have been working proactively on this file. First of all, we reinvested $675 million in CBC/Radio-Canada. Our public broadcaster now has journalists on the Magdalen Islands and in southern Ontario, that is, in areas that did not have journalists in the past.

Second, our latest budget included $50 million to support journalism in underserved communities and areas where there is no longer much local media. We also included $14 million for local media in official language minority communities as part of our Roadmap for Canada's Official Languages and the Action Plan for Official Languages. This is the first time any funding has been allocated to community radio stations through the Action Plan for Official Languages.

Finally, in collaboration with my colleague, the Minister of Finance, on this file, we put a plan in place to help the media adopt new models that will enable them to accept philanthropic donations and get through the digital shift.

NEW BUSINESS MODELS FOR THE MEDIA

Hon. Raymonde Saint-Germain: Good afternoon and welcome, minister.

My question is along the same lines as Senator Dawson's and Senator Joyal's questions. This morning you announced the creation of a panel of experts, and I applaud their level of expertise. The panel is supposed to release its report in January 2020, 18 months from now. However, everyone knows that it usually takes several months from the time a report is released until legislation can be introduced. My concern is for the future. Meanwhile, Canadians continue to pay twice as much for the container as they do for the content. Bandwidth revenues are twice as high as revenues from access to content. Print media is clearly experiencing a crisis, as are most media platforms. CBC/Radio-Canada is not necessarily my only concern.

In concrete terms, how do you intend and how would you be able to quickly respond at the right time when crises arise, which is inevitable, without responding that you are waiting for a report or the amendment of legislation?

Hon. Mélanie Joly, P.C., M.P., Minister of Canadian Heritage: Thank you, senator.

First, the committee will present an interim report by June 2019, and at that time we will have a good idea of the proposed solutions.

Let's go back a few years. First of all, when I was appointed Minister of Canadian Heritage, I made the digital shift my priority. At the time, not many people were talking about digital issues. We held consultations on protecting and promoting content in the digital age in order to protect our sector and make it more resilient.

Then I announced a cultural policy that clearly indicated that we should adapt the mandate of our cultural institutions, in particular the Canada Media Fund, in order to properly support the transition at a time when our production and media sectors were facing challenges.

I announced a $172-million investment to support the Canada Media fund, and we invested a total of $3.2 billion in culture, which was the largest investment in 30 years.

Nevertheless, I realize that the different sectors — the music, film, television, and media industries — are extremely worried about the upheaval they are experiencing. However, the reality is that we have to get things right and draft sound legislation. We also have to work with the various industries to determine what is the best way to expand the contribution of Canadian and international stakeholders to our system.

There is currently no jurisdiction in the world that hasn't modified their broadcasting system. One of your colleagues mentioned that the European Union had moved forward, but that is not the case. They are still in talks. We are also looking at what is going on abroad. It goes without saying that Canada is a minority in North America and that we must protect our culture and Canadian voices.

I want to add that we know full well that Internet access is very expensive in Canada. Internet costs in Canada are among the highest in OECD countries. As part of this review, my colleague, the Minister of Innovation, Science and Economic Development, and I will also be making affordable Internet access a priority.

OFFICIAL LANGUAGES POLICY

Hon. Lucie Moncion: Good afternoon, minister. Welcome to the Senate. The Minister of Canadian Heritage is responsible for the Official Languages Act, and since the act will be turning 50 in 2018, it needs to be modernized. One important aspect that needs to be reviewed involves giving the Commissioner of Official Languages the authority to enforce the rights of aggrieved individuals or groups and to seek compensation.

Can you talk about this aspect and tell us what you will do to address this gap in the Official Languages Act?

Hon. Mélanie Joly, P.C., M.P., Minister of Canadian Heritage: Thank you, senator, for your very relevant question. First, not only have we invested $1.7 billion over five years in official languages, but we have also been innovative in our approach to and vision of official languages in this country.

For a long time, the approach to official languages was essentially to ensure bilingualism in the public service and to recognize linguistic rights across the country, rights that were enshrined in the Constitution. For the first time, our Action Plan for Official Languages also recognizes that preserving Canada's linguistic duality, and in particular preserving the French fact in Canada, depends on the vitality of our linguistic communities. That is why we are providing more funding to our official languages organizations. I recently announced a 20 per cent increase in their overall budgets.

We are also launching the first national strategy to support francophone immigration, because preserving official languages communities can only happen by welcoming and integrating francophone newcomers into our francophone communities. In addition, we are implementing a new strategy for supporting early childhood development in French outside Quebec.

• (1600)

We know that the Official Languages Act will turn 50 next year. I look forward to reading the recommendations from the Senate committee that is studying the modernization of the Official Languages Act. For our government, linguistic duality is fundamental and the Official Languages Act is of paramount importance.

GRANTS FOR EVENTS AND FESTIVALS

Hon. Jean-Guy Dagenais: Welcome, Minister. Many festival organizers in Quebec have become millionaires, even if they're the heads of non-profit organizations. Their status allows them to access generous government subsidies. Thanks to a creative little scheme, they can funnel money through service companies.

In order to encourage cultural promotion instead of lining organizers' pockets, can you guarantee that your department will be more careful in subsidizing festivals and that the analysis of financial statements will not be limited to non-profit organizations but will also extend to other companies in the sector, so that we can meet the most pressing needs? Otherwise, grants and subsidies become a form of guaranteed income for already wealthy groups.

Hon. Mélanie Joly, P.C., M.P., Minister of Canadian Heritage: It goes without saying that festivals are very important to us. They have considerable economic and cultural benefits in Montreal, throughout Quebec, in the Toronto area and across the country. The Canada-China Year of Tourism celebrations are an opportunity for us to bring in tourists from all over the world, particularly China.

With regard to funding, the fact that these are non-profit organizations is taken into account. At the same time, as a government, we also have to protect Canadian ownership of these festival management companies. That is vital for the protection and the promotion of our cultural sector across Canada.

MINORITY LANGUAGE SERVICES

Hon. Mobina S. B. Jaffer: Welcome to the Senate, minister. Thank you for your work to promote national bilingualism, for adopting the Action Plan for Official Languages, and for the Canadian vision to achieve a more inclusive bilingualism.

I would like to share my concern about francophone immigration to British Columbia. Some 30 per cent of the Franco-Columbian population comes from outside Canada, from places like Morocco, Mauritius Island, Congo, Senegal and Syria. However, upon arriving, francophone immigrants to my province are not informed about French-language services and education available to them.

Minister, can you explain to me why francophone immigrants to British Columbia are not informed about the French-language education options available to their children?

Hon. Mélanie Joly, P.C., M.P., Minister of Canadian Heritage: Thank you for your question, senator. That is a crucial question because it relates to the longevity of the francophone community in British Columbia and across the country. During our Canada-wide consultations, we realized that there is no national strategy to attract francophone immigrants to Canada or to make them feel welcome and help them integrate. Not only was there no national strategy, but also, there were very few organizations in Canada providing this service.

In the Action Plan for Official Languages, the federal government will, for the first time, fund minority language community organizations that can integrate francophone immigrants into the community. This is basically a "by-and-for" approach to immigration. We hope the provinces will get on board because, as you know, they are responsible for integrating immigrants in their own jurisdictions. Together with the FCFA and many organizations across the country, we want to build this type of expertise, which, ultimately, will impact generations to come.

COPYRIGHT POLICY

Hon. Renée Dupuis: Minister, welcome to the Senate. Few Canadians could write about Rue Deschambault as Gabrielle Roy did when she described the street in Saint Boniface, now part of Winnipeg, where she grew up, in *Ma petite rue qui m'a menée autour du monde*. Her first novel, *Bonheur d'occasion*, published in both France and Quebec in 1947, earned her the Prix Femina, a prestigious French literary award. Not only was this award a sign of her personal success, but she was also the first foreign author to receive it. I believe that this clearly demonstrates the contribution of Quebec and Canadian authors to international cultural diplomacy.

The Prix Femina was subsequently awarded to Anne Hébert in 2002 for *Les fous de Bassan* and Nancy Huston in 2006 for *Lignes de faille*. This literary award was created in 1904 by France and has been awarded to only 11 foreign authors.

The Copyright Act, which is currently being revised, primarily protects authors' ownership rights with respect to their works, and, therefore, their right to decide how their work can be used as well as, among other things, the financial consideration for their use. You might think that an author's copyright has the same protection as any copyright in Canada. That is actually not the case. We seem to forget that, without an author's work, we would not have the cultural industries of film, opera, or theatre, the many jobs that depend on them and platforms that showcase these works in various places in various formats.

That act, however, has built-in exceptions to the author's right of ownership. For example, since 2012, it includes something that has largely been criticized by writers' associations in Quebec, in Canada and internationally—

The Hon. the Speaker: I'm sorry, senator, but do you have a question?

Senator Dupuis: I want to know what the minister will do to restore right of ownership, to eliminate the so-called "fair use" concept, which is in fact unfair, and to make sure that the authors' right of ownership on their works, including when it comes to the announcements the minister just made, is restored and protected.

Hon. Mélanie Joly, P.C., M.P., Minister of Canadian Heritage: I thank the honourable senator for that important question. I share her passion for our literary sector. I want to remind her that we decided to invest millions of dollars in promoting our writers, because Canada will be the guest of honour at the 2020 Frankfurt Book Fair, the biggest international literature fair in the world. Our entire literary sector is currently engaged to make sure that Canada is well represented at that fair.

Regarding copyright, as I said earlier, it goes without saying that we really want to better protect our authors. We want to make things more equitable for our artists and authors. That is why the House of Commons Standing Committee on Canadian Heritage is studying this issue. We are eager to read its recommendations.

As far as fair use and fair treatment go, that issue is currently before the courts, so I can't discuss it directly.

INFRASTRUCTURE BANK

Hon. Larry W. Smith (Leader of the Opposition): Minister, my question is about your responsibilities as Minister of Official Languages. We recently learned that the new Canada Infrastructure Bank is incapable of providing services to Canadians in French. That bank was created as a Crown corporation last year through Bill C-44. Its Toronto office has been open since December.

• (1610)

Minister, were you aware of reports that the Canada Infrastructure Bank operates in English only? What will you do to ensure that this Crown corporation lives up to its legal obligations to provide services in both official languages?

Hon. Mélanie Joly, P.C., M.P., Minister of Canadian Heritage: I thank the senator for his question. It is unacceptable that the Canada Infrastructure Bank offers services only in English. I discussed this issue with Amarjeet Sohi, the Minister of Infrastructure, and he is working on it. We just appointed Pierre Lavallée to run the Infrastructure Bank. He is completely bilingual and will, of course, ensure that the bank meets its official languages obligations.

Senator Smith: Since you appointed someone who will look at the language issue, are there people who have the ability to examine the applications that are submitted in French?

Ms. Joly: It's not complicated, senator. The Official Languages Act exists and we must comply with it. All government agencies must comply, period.

BUSINESS OF THE SENATE

The Hon. the Speaker: Honourable senators, the time for question period has expired.

Thank you, minister, for joining us today. We look forward to seeing you again.

Ms. Joly: Goodbye.

[*English*]

ORDERS OF THE DAY

CANNABIS BILL

BILL TO AMEND—THIRD READING—
MOTION IN AMENDMENT ADOPTED—
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Dean, seconded by the Honourable Senator Dupuis, for the third reading of Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts, as amended.

And on the motion in amendment of the Honourable Senator Carignan, P.C., seconded by the Honourable Senator Andreychuk:

That Bill C-45, as amended, be not now read a third time, but that it be further amended

(*a*) in clause 62, on page 36, by replacing line 17 with the following:

"directly or indirectly, and any other information to be made available to the public by the Minister under section 128.1."; and

(*b*) on page 78 by adding the following after line 9:

"**128.1** The Minister must make available to the public the name of every holder of a licence or permit, including, if the holder is an organization, the names of

(a) its directors, officers and members and any person who controls it, directly or indirectly;

(b) any parent corporation or trust that controls it, directly or indirectly;

(c) the directors, officers and members of and any person who controls its parent corporation, directly or indirectly;

(d) the shareholders of the organization or parent corporation or, in the case of an organization or a parent corporation that is a public corporation as defined in paragraph (a) of the definition *public corporation* in subsection 89(1) of the *Income Tax Act*, the shareholders of the organization or parent corporation that hold more than 5% of any class of shares; and

(e) the directors, officers and beneficiaries of any trust that controls it, directly or indirectly.".

The Hon. the Speaker: Honourable senators, the bells will ring for two minutes, and two minutes only, for the vote to take place on the proposed amendment.

Call in the senators.

Motion in amendment of the Honourable Senator Carignan agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Massicotte
Ataullahjan	McCallum
Batters	McInnis
Beyak	McIntyre
Boisvenu	McPhedran
Carignan	Mégie
Christmas	Mercer
Coyle	Mockler
Dagenais	Neufeld
Day	Ngo
Downe	Oh
Doyle	Patterson
Galvez	Plett
Greene	Poirier
Griffin	Richards
Housakos	Seidman
Jaffer	Smith
Joyal	Stewart Olsen
Lovelace Nicholas	Tkachuk
MacDonald	Wallin
Maltais	Wells
Marshall	White—45
Martin	

NAYS
THE HONOURABLE SENATORS

Bellemare	Gagné
Bernard	Gold
Black (*Alberta*)	Harder
Black (*Ontario*)	Hartling
Boniface	Marwah
Bovey	Mitchell
Campbell	Moncion
Cools	Munson
Cordy	Omidvar
Cormier	Petitclerc
Dawson	Pratte
Dean	Ravalia
Dupuis	Ringuette
Dyck	Woo—29
Eggleton	

ABSTENTIONS
THE HONOURABLE SENATORS

Boyer	Saint-Germain
Deacon	Wetston—5
Lankin	

• (1620)

Hon. Frances Lankin: Your Honour, do I have an opportunity at this point to explain my abstention?

The Hon. the Speaker: You can if you wish, Senator Lankin, please.

Senator Lankin: I heard a "no" over there, so I wasn't sure.

I just want to make it very clear that I take no joy from the amendment passing nor being defeated. I generally support the rationale and the reasons put forward for this. I think it is an abominable example of us failing to do our job of sober second thought. When something like this comes in at the end and is not distributed, as per the agreement, a day before so we had the opportunity to understand unintended consequences, I think it is not within our competence to take a snap vote like this. I'm disappointed that we behave in this way from time to time in the chamber.

Hon. Donald Neil Plett: I was part of working out an arrangement among four groups in how we were going to do this, and I take exception when Senator Lankin said we did something that was not as per the agreement. We had an agreement that we would try to do certain things as well as we could and that it would not always be possible. This is one of those examples.

For her to say that it's not as per the agreement is absolutely false.

The Hon. the Speaker: Senator Boisvenu, on debate.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: Mr. Speaker, I rise today to speak about an important issue, the lack of a ticketing regime for the underage possession or distribution of cannabis.

My speech focuses on a true decriminalization regime. Bill C-45, as it now stands, legalizes marijuana, but it does not decriminalize it as a real decriminalization regime would. Under Bill C-45, the police would not have all the tools they need to deal with young people who distribute more than five grams of cannabis to their friends. They have the Youth Criminal Justice Act, but they cannot act outside the Criminal Code. That will affect the lives of thousands of young people across the country, perhaps even a member of your own family.

Many legal experts appeared before the Standing Senate Committee on Legal and Constitutional Affairs and the Standing Senate Committee on Social Affairs, Science and Technology and spoke to a constitutional flaw. Mr. Robichaud told the Standing Senate Committee on Social Affairs, Science and Technology what would happen to minors if Bill C-45 is passed. He said, and I quote:

> When it's over 5 grams, it automatically triggers the criminalization and the whole process that goes with that . . .

Michael Spratt, another defence lawyer, said, and I quote:

> The lack of a ticketing regime for the underage possession and distribution of marijuana makes section 51 unconstitutional.

Dear colleagues, there is a major flaw in this bill. In committee on April 30, Mr. Friedman, a distinguished young lawyer, pointed out the consequences of the unconstitutionality of clause 5. This bill currently violates section 15 of the Canadian Charter of Rights and Freedoms. He said, and I quote:

> . . . young persons who contravene the proposed cannabis act are treated more harshly than their adult counterparts. This disparity stands in stark contrast with the principles and purpose of the youth criminal justice regime, namely, rehabilitation, reintegration and fair and proportionate accountability for young persons.

In its brief dated July 6, 2017, the Barreau du Québec underscores the following on page 8:

> The regular criminal process is therefore imposed on a population that is particularly vulnerable.

This observation means that two objectives underlying Bill C-45 are being undermined: reducing the burden on our criminal justice system and steering youth away from the slippery slope of criminality.

[*English*]

The report of the Senate Standing Committee on Legal and Constitutional Affairs clearly mentions this problem:

> . . . youth would again be treated differently and could possibly receive a stricter sentence or at least have more interaction with the criminal justice system under the *Youth Criminal Justice Act* . . . .

I repeat: "more interaction with the criminal justice system." This is why I propose an amendment.

[*Translation*]

The proposed amendment would give police officers a choice between issuing a fine and invoking the Youth Criminal Justice Act in the case of youth under the age of 18 found in possession of or distributing more than five grams. A ticket would apply in cases involving more than five grams.

Honourable senators, let's give police officers the option of invoking the Youth Criminal Justice Act or issuing a ticket outside of that act, as they would do for adults. Let's put ourselves in the place of parents. As a grandfather, I would not want my grandchildren to be caught in the meshes of the Youth Criminal Justice Act.

[*English*]

That ticketing regime as written is unconstitutional. It excludes youth, and that sort of discrimination is going to offend the Charter. This is why I table this amendment.

[*Translation*]

MOTION IN AMENDMENT NEGATIVED

Hon. Pierre-Hugues Boisvenu: Therefore, honourable senators, in amendment, I move:

> That Bill C-45, as amended, be not now read a third time, but that it be further amended,
>
> (*a*) in clause 12, on page 14, by replacing line 27 with the following:
>
> "**(10)** Subject to section 51, every young person who contravenes subsection (1)"; and
>
> (*b*) in clause 51,
>
> (i) on page 28, by replacing lines 30 and 31 with the following:
>
> "may be commenced by a peace officer", and
>
> (ii) on page 29,
>
> (A) by replacing lines 15 and 16 with the following:

"the contravention of any of paragraphs 8(1)(a), (b) and (c) or any of subparagraphs 9(1)(a)(i), (iii) and (iv) and (b)(i) and (ii) in respect of",

(B) by replacing lines 21 and 22 with the following:

"**(b)** proceedings in respect of an offence arising out of", and

(C) by replacing line 33 with the following:

"9(1)(a)(i), (iii) and (iv) and (b)(i) and (ii);".

• (1630)

The Hon. the Speaker pro tempore: In amendment, it was moved by the Honourable Senator Boisvenu, seconded by the Honourable Senator Patterson:

That Bill C-45, as amended, be not now read a third time, but that it be further amended, (a) in clause 12, on page 14, by replacing line 27 with the following: "(10) Subject to section 51, every young person who contravenes subsection (1)"; and—

An Hon. Senator: Dispense.

[*English*]

The Hon. the Speaker *pro tempore*: Senator Eggleton, you had a question?

Hon. Art Eggleton: Yes.

Senator Boisvenu, I couldn't agree with you more in that we don't want to criminalize our young people. We don't want to give our young people criminal records that will destroy their lives. There's no doubt about that. That's one of the reasons why, in our committee, we adopted an amendment that was suggested by Senator Seidman. She said, in clause 5.1:

For greater certainty, nothing in this Act is to be construed as limiting the operation of the extrajudicial measures that are provided for under the Youth Criminal Justice Act.

Now, when I read the word "criminal" in the name of the act it gives me pause, but those extrajudicial measures involve charging a young person. Police and prosecutors are specifically authorized to use various types of extrajudicial measures like take no action, informal warnings, formal warnings, a letter to the parents, things like that.

Isn't that a better provision than slapping young people with fines of maybe $150 which they can ill afford?

[*Translation*]

Senator Boisvenu: We have looked at the committee's proposed amendment. Here is the problem. Young people are not excluded from the justice process, and some evidence will be left behind according to the bill as it currently stands. If a young person reoffends a second or third time, the first offences will stay in that young person's record. With the fines system, fines imposed for selling six or eight grams disappear from the justice system. That is the problem with your proposed amendment. The offence remains on record within the justice system, which is not the case for adult offenders. That is the difference.

[*English*]

Hon. Rose-May Poirier: Honourable senators, I rise today in support of Senator Boisvenu's amendment to add a ticketing option for our youth when it comes to single possession and distribution. One of the objectives and intentions of Bill C-45 was to protect our youth by changing the approach to recreational cannabis from a criminal perspective to a public health policy approach. When looking at the bill as drafted today and after hearing from numerous witnesses at the Social Affairs Committee, I am concerned that Bill C-45 doesn't fully reach its objectives bringing our youth away from the criminal justice system.

I had the opportunity to be a member of the Social Affairs Committee throughout our study of Bill C-45, and as the proceeding went along the concerns over the impact of the criminalization on the youth's socialization were growing. Whether it was the disparity of criminalizing a behaviour of youth but not for adults or having only the Youth Justice Act as an avenue when a youth has over 5 grams, Bill C-45 punishes and criminalizes a youth along the way. Not only do we need to protect their health, we also need to protect them from being criminalized due to a simple mistake of having 6 grams of cannabis on them instead of 4.

As Corey O'Soup, Advocate for the Saskatchewan Advocate for Children and Youth said on April 25:

Last, we have concerns about clause 8 of the proposed act regarding the criminal offence for cannabis possession as they relate to youth. The current legislation makes it an offence for youth to possess more than 5 grams of cannabis, while for adults an offence does not occur unless there is a possession of 30 grams or more. While we support the objective of reducing youth exposure to cannabis, we have concerns that this could lead to heightened criminalization of youth.

And I believe, honourable senators, that Mr. Kirk Tousaw from the Tousaw Law Corporation said it most clearly on May 24.

As a parent of four children under 18, this comes from my heart — we must not criminalize young people in our pursuit of our laudable goals of trying our best to keep them safe and give them the tools they need to make responsible choices.

I would also like to quote Emily Jenkins, Assistant Professor, School of Nursing, University of British Columbia, who appeared as an individual on April 25.

Additionally, there's strong evidence that the social costs of criminalization are profound and disproportionately affect youth, particularly Indigenous and racialized youth and youth in marginalized communities. These harms include stigmatization and exclusion, limited opportunities for

> meaningful employment, worsening levels of poverty and poor health outcomes, all while exhausting limited public resources.

As of right now, Bill C-45 only provides for the Youth Justice Act for a simple possession of over 5 grams. And with Senator Boisvenu's amendment, we are reducing the risk of criminalizing our youth, protecting them from the path of the justice system, but mostly offering them a fair penalty without long-term consequences. For most of the youth with a simple possession, at 14 or 15, whichever age under 18, it will be their first experience with our justice system. Do we want them to feel the full weight of it from a young age?

As Mr. Tousaw again made the clear point on the impact of involving the criminal justice system for simple possession of cannabis:

> We cannot make the impacts of that use dramatically worse by also involving them with the criminal justice system. Involvement with the criminal justice system for simple possession of cannabis provides no benefit to the young person. In fact, it's all negative. You become fearful and resentful of the police. You become entangled with the criminal justice system. You might have a lifelong criminal record. You might not be able to cross the border into the United States. Future employers might turn you down. There are a host of negative consequences that arise simply because we've chosen to label that normal behaviour as criminal behaviour. We need to take a different approach.

And that different approach, honourable senators, in my opinion, should involve a ticketing regime like Senator Boisvenu is proposing. It is the right step to take into decriminalizing a behaviour and to protect our youth from the negative consequences of dealing with the justice system. The Youth Justice Act is there as an option but more is needed for our youth. And that is what Solomon Friedman, criminal defence lawyer at Edelson & Friedman, expressed on April 30:

> Right now, to me, when I read this — and I've read the legislation, the legislative summaries and the commentaries a number of times — I cannot for the life of me understand what the possible argument is to deny youth access to the ticketing regime. It simply makes no sense.

It also tightens up the gap between youth and adults when it comes to sanctions. As some witnesses pointed out, there were some disparities in the bill where sanctions for youth were harsher and the lack of option, especially for ticketing were unavailable for youth whereas they were available for adults. As Michael Spratt, a criminal lawyer, said on May 2:

> The ticketing provision also discriminates against the young. They are not allowed to partake in that and will be forced down the criminal path. There will are no discretion for police officers or prosecutors to afford youth the benefit of receiving a ticket.

Lastly, I believe Senator Boisvenu's amendment would help with the concerns expressed during the Social Affairs Committee clause-by-clause examination. When we came to this observation, which was adopted unanimously at committee, everyone had some concerns. I will read the observation:

> The committee concurs with the observation of the Standing Senate Committee on Foreign Affairs and International Trade that the Government of Canada should examine Part 1, Division 1, clause 8 of Bill C-45 by which Canadian youth are criminalized for behaviour that is legal for adults.

We had government officials present, giving answers especially for the constitutionality aspect of the Youth Justice Act and the outcome for a youth who goes through it. And from reading the transcript and from memory of the proceedings, we were not fully convinced of the answer. Whether it was on the constitutionality of the Youth Criminal Justice Act, whether it was on the long-term implications, there were concerns around it. And again, with a ticketing regime such as Senator Boisvenu's amendment, it gives that extra tool to the police and a protection from unnecessary criminalization of our youth.

• *(1640)*

So again and again, honourable senators, Senator Boisvenu's amendment is a fair and fitting amendment to improve the bill and to have Bill C-45 attain its objectives. The ticketing provides a path of non-criminalization away from the justice system for simple possession, giving another tool to the police officers when dealing with a young person, allowing ticketable offences for youth, not just for adults, and furthermore, protects our youth.

It is my sincere hope that senators will support this fair and reasonable amendment, because at the end of the day we all want to protect our kids, our youth, as best we can. With a ticketing system, I believe that's exactly what we are doing.

I urge my honourable colleagues to think deeply before they vote. Do we want our youth to go down a path of criminalization due to a mistake of having a simple possession of 6 grams? Or do we want to help them avoid the criminal justice system by having a ticket? Let's help them avoid a path of criminalization by adopting Senator Boisvenu's amendment of a ticketing regime for our youth.

Thank you, honourable senators.

Hon. Art Eggleton: Honourable senators, isn't this something? We've got the Conservative caucus telling us that we're too tough on crime in this bill. Anybody who was here in the last Parliament will know what I mean. I must tell you that I certainly share the view that we want to protect our youth as much as we possibly can.

Ticketing is something that is part of this regime. I don't think anyone should get any criminal record, whatever age they are, out of possession. I think it's a health and a safety issue, and they should not be getting a criminal record. So the ticketing makes sense for the adults. I understand that, and the ticketing provision is in here.

But when it comes to children under the age of 18, a different regime is proposed here, and it's the youth criminal justice system. I hate the word "criminal" in it, but that's what it's called.

When I first saw that, I said, "Oh, no, that's not the right way." But then I got looking further into what that act and what that system involves, how it is, in fact, implemented, and we had officials come to our committee and they talked about what it does.

First of all, courts generally don't prosecute minor marijuana offences charged for people under the age of 18, noting that these cases are often dealt with through diversion programs designed to steer them out of the court system. That's where these extrajudicial measures come into effect.

They're non-court responses to less serious responses by youth. They require the police officers to consider the use of extrajudicial measures before deciding to charge a young person. Police and prosecutors are specifically authorized to use various types of extrajudicial measures like taking no further action, giving informal warnings, sending a letter to the parents or bringing the parents in for an interview.

Now, I asked Senator Boisvenu that question, and he said, "What about the records that survive all of that process?" As a general rule, the Youth Criminal Justice Act protects the privacy of young persons who are accused or found guilty of a crime by keeping their identity and other personal information confidential. The protection of privacy is achieved by prohibiting the publication of information that would identify a young person's involvement in the criminal justice system and restricting access to their youth records.

On top of that, to give us even more comfort, Senator Seidman, a member of the Conservative caucus too, moved an amendment at the committee, which we agreed to. Even though we had heard all this information from the officials, even though we knew this process was a key part of the bill, she moved that for greater certainty, nothing in this bill will be construed as limiting the provision of the extrajudicial measures — which I read — provided for under the Youth Criminal Justice Act. That was passed by the committee. It is now part of the bill because the committee's report has been adopted by this chamber. I think that's the appropriate response to this.

When you get into ticketing, what if somebody who is 14, 15 or 16 years of age gets a $150 ticket and they can't pay it?

It concerns me, and I think it should concern all of us, that there is an uneven system here in terms of who gets charged, both adults and youth. It's disproportionately people of racialized minorities. It's disproportionately Indigenous people and people living in poverty.

A $150 fine is not going to be easy. What happens if they don't pay the fine? What punishment comes to them then? It could end up worse than what these extrajudicial measures would be.

I'm sorry, I don't support the amendment, but I am prepared to give what is in the bill now my support on the understanding that it is going to create much greater decriminalization for all people in possession, but particularly for young people. I believe that that will be the case, so I will not be supporting the amendment of Senator Boisvenu.

Hon. Vernon White: Just so I understand this, because to be *fair*, I haven't spent much time on this section, the extrajudicial sanction, if the young person refuses to participate in such a sanction, under the legislation today it means they actually could end up back in front of a court.

If I understand it properly, I thought the ticketing suggestion was to give an alternative to an extrajudicial sanction, not to replace it. The alternative could be that if the young person doesn't accept responsibility or refuses the extrajudicial measure, they actually find themselves back in front of a youth court.

The question is: Is that your intent? It's like "Jeopardy." Was that your intent or had you not looked at that section 7?

Senator Eggleton: I suppose that's quite possible. Given the kind of measures that are involved in extrajudicial sanctions, which are essentially warnings — you've been a bad boy or girl and we're going to tell your parents and send them a letter or something like that — I don't know why they would want to fight that and end up in a court in front of a judge. But still, as I also pointed out, rarely do such charges appear in front of the court. Of course, the courts are guided by the legislation, guided by the very measure that Senator Seidman put into the committee's discussion and was adopted; that is, that nothing in this bill is to be construed as limiting the operation of the extrajudicial measures.

I think that's a better outcome for youth than getting into a ticketing regime they may not be able to afford. The ticketing regime is more for the adults, and I think that's the best way to have it. I don't want anyone, as I said, to go to jail or get a criminal record of any kind for possession of cannabis.

• (1650)

Senator White: May I ask another question? I don't disagree with what you're saying. I'm trying to get the point, though, that if the young person denies responsibility — so in other words, the young person is picked up by the police with a small quantity of marijuana and denies it's their marijuana — extrajudicial is not available to the police. What is the alternative at that point?

My suggestion is the alternative, if it is a ticket under this legislation, is that they will be dealt with under this legislation. If they do not, they'll be dealt with under the Youth Criminal Justice Act, so it will be in front a court.

I want to make sure we're on the same page. To put it in the form of a question: Don't you agree?

Senator Eggleton: The way the act is written and the way it is, in fact, administered is to protect youth. It's to prevent them from getting a criminal record or having that tag that can destroy their lives. The system is geared towards that, and if the person wants to fight it and ends up in front of a judge, then the judge will have to make that decision.

There are three discretion levels that occur throughout this system. One is for the police officer; the second is with the Crown prosecutor; and, third, the judge. I think there is every opportunity to protect young people, and particularly with this amendment with which, for greater certainty, we ask them to use these measures.

The Hon. the Speaker *pro tempore*: There is 40 seconds left, Senator Pate.

Hon. Kim Pate: There seems to be some confusion between Senator White and yourself. Isn't it true that the Youth Criminal Justice Act allows for a warning and referrals and cautions and not just extrajudicial measures? They're not one and the same.

Isn't it also true that one of the reasons most youth court judges don't usually impose fines is because it is usually the parents who are left to pay the bill? In fact, most would use precautionary measures, other referrals and extrajudicial sanctions — if the offence was seen as a more serious offence. In fact, they would more likely use the less serious mechanisms rather than a fine.

The Hon. the Speaker *pro tempore*: I'm sorry, your time is up.

Senator Pratte, on debate.

[*Translation*]

Hon. André Pratte: Honourable senators, very briefly, I am going to oppose this amendment for the same reasons I opposed the previous amendment. I do not necessarily disagree with its intent or objective, but this is a very complex amendment that was moved at the last minute. Even though we have 15 minutes left before the vote, that is really not enough time.

The Standing Senate Committee on Legal and Constitutional Affairs has studied this issue. We considered the possibility of including youth in the ticketing regime, as this amendment proposes. One of the reasons we chose not to do so is that we are well aware that the youth criminal justice system is one of the most complex aspects of the criminal justice system. It is an extremely sensitive and complex field. Lawyers make it their lifelong specialty, and we know that we can't make changes to it without affecting the wider criminal justice system.

That is why we adopted the recommendation from the Quebec bar, which was taken up by Senator Seidman and passed as an amendment to the bill by the Standing Senate Committee on Social Affairs, Science and Technology. We thought it seemed like a more cautious approach.

As we saw from today's questions, this amendment raises many questions about interactions with the new ticketing regime, which will lead to a criminal record that also raises many questions, since we do not know just what it will entail. The youth criminal justice system raises far too many questions to be adopted in just 15 minutes, without fully understanding the consequences.

For example, what role would parents play in this ticketing system that would now apply to youth? I'm no expert, but if I understand correctly, the youth criminal justice system has a specific role for parents, but this system, as it stands, does not provide for any role for parents.

Therefore, in my opinion, it would be foolish for us to start tinkering with the youth criminal justice system at the last minute. That does not mean it's not a good idea, but if it is a good idea, then it is worth taking a thorough look at it in sober second thought mode instead of rushing it through.

The Hon. the Speaker pro tempore: Would Senator Pratte take a question?

Senator Pratte: Yes.

[*English*]

Hon. Marc Gold: Senator Pratte, would your response in opposition to the amendment, which I share, be reinforced were you to know that there is no credible argument that the different treatment of youth and adults in this particular area would violate Article 15 of the Canadian Charter of Rights and Freedoms, as it has been interpreted over the years in an increasingly deferential manner toward the legislation by the Supreme Court of Canada? Would that reinforce your opposition to this amendment?

Senator Pratte: I am even more convinced.

Senator Gold: Thank you.

Hon. A. Raynell Andreychuk: Are you aware that this perhaps violates the Convention on the Rights of the Child in that there should be no harsher penalty nor harsher offence for young people, and that we are bound by the Convention on the Rights of the Child, which we've signed? Not the Charter, but the Convention on the Rights of the Child.

Senator Pratte: Senator, that point was made in front of the Legal Affairs Committee. Again, if it is a good point, this amendment should not have been brought in at the last minute, where we cannot measure the consequences of it.

Some Hon. Senators: Oh! Oh!

Senator Pratte: Well, if you want to legislate in 15 minutes things that can have long-lasting consequences on young Canadians, I'm not going to do it.

The Hon. the Speaker *pro tempore*: Senator McCallum, do you have a question?

Hon. Mary Jane McCallum: On debate.

Honourable senators, it is well known that a high number of youths are already smoking marijuana in Canada, and that includes a high percentage of Indigenous youth. Why they choose to do so is an issue that has not been given priority and not been investigated.

In his book *Handcuffed by History*, Gordon Cruse interviews men who were in juvenile detention centres as youths, many of them for marijuana use. Mr. Cruse worked with these youths for over 40 years and interviewed them 20 years later to see what recommendations they would make.

Many of them became successful citizens, parents and mentors despite their history of crime, mostly because of support and resources like Mr. Cruse, and they were able to make different choices later in life.

However, many were hindered by the legacy of their unfortunate beginnings and it followed them through their lives. Many of these men recommended that other options be offered to youths, especially youths incarcerated for marijuana use. They recommended programs to provide alternative options to help youths realize the lessons that they needed to learn.

These men said placing youths in juvenile detention centres just taught them to become criminals, and I think we've all heard about the legacy of prison.

Choosing to do drugs remains a social issue that continues to be criminalized. Punishing a youth who has a young, expanding and growing mind like an adult doesn't make sense. On many occasions, these children have fewer resources than other youths.

Ticketing is a pretense of dealing with the problem, which stems from disobedience on some occasions. On many more occasions, marijuana is used to temper anxiety.

Many of these youths and their families will not have the money to pay for the fines. Once a youth is forced into the criminal life, they begin the process of remand.

When I worked up North on the reserves, the people fly out to Thompson or to The Pas to go to court, they're remanded and they fly back all at their expense. When it comes time for the next court case, at some point they do not have the money to fly out, and then they're taken and put into prison. This will target Indigenous youth disproportionately. I also understand that provinces have implemented their own regimes; so I'm concerned about this ticketing. Thank you.

• (1700)

Hon. Tony Dean: I'm glad to join this debate. I'm going to go back to one of the key principles of Bill C-45, which is to help, support and educate kids, to do better for kids than we are currently doing, to bring cannabis issues into the light, bringing them out from the darkness.

For that reason, there was a decision to move toward proportional responses to cannabis offences, ones that are flexible, ones that recognize that kids aren't simple — they're complex — that recognizes that cannabis isn't simple, that it has a number of complexities. Emphasis was placed on the Youth Criminal Justice Act, which is world renowned, by the way, for its approach to emphasizing the decriminalization of young people. People come and look at it from other countries; it's something we should not take lightly.

As we've heard, there are a broad range of measures outlined in the Youth Criminal Justice Act that involve taking no further action. Maybe 6 grams isn't a ticketing offence; maybe it's a no-further-action offence. Or maybe it's an informal warning available under the Youth Criminal Justice Act.

Police caution programs led us to parents, Crown cautions, referrals to programs. When you've got the kid who can be helped, who needs help, and we've talked about access to resources, to mental health programs and harm-reduction programs, when you have that kid in front of you, it might be easier to give that kid a ticket. Just get it out of the way, deal with it, give that kid a ticket. It's not going to be the best thing for that kid. Access to a community program and counselling is going to work better — extrajudicial sanctions.

You've heard me say this before. I've kept in very close contact with Ontario officials in terms of the close collaboration between the federal government and provincial officials as we've thought about the implementation of this legislation. What I heard was that those in the Ontario justice ministry were absolutely delighted with the emphasis on the Youth Criminal Justice Act because it works. They can fine-tune it; it's flexible; it offers a range of responses. Essentially the message I got several months ago was, "Don't screw that up for us because it works, it's good for kids, and it will work particularly under a regime in which we are legalizing and strictly regulating cannabis."

I will say no more than that, and I won't restate the request that came to me from Ontario officials who are close to the ground and who understand the realities of kids and cannabis. Thank you.

The Hon. the Speaker *pro tempore*: Senator Dean, would you accept a question?

Senator Dean: Yes.

Hon. Mobina S. B. Jaffer: Thank you, Senator Dean. Before I ask you a question, I want to thank you for all the work you have done on this very difficult file.

Hon. Senators: Hear, hear!

Senator Jaffer: Honourable senator, from what you, Senator Eggleton and Senator McCallum were saying, for young people in our country, we have set up a completely different regime. It's a system very different from an adult court, and the right place to deal with issues of young people is in youth court, not in adult court where there is a different regime. Isn't that why it's important to keep those two systems separate?

Senator Dean: Absolutely it is. The important aspect in this case is that, in some cases, there's diversion way before youth court, let alone adult court. You're absolutely right, honourable senator. This is available to us. It works. We should be emphasizing it and using it and not looking for other alternatives. Thank you.

[*Translation*]

Hon. Pierre-Hugues Boisvenu: You touched on clause 5.1. However, you did not touch on clause 51, which discriminates against young people 18 and under relative to those over 18. Every expert who appeared before the committee said that this clause was unconstitutional.

Can you guarantee that under the bill as currently worded, no young person under 18 in Canada will be criminalized?

[*English*]

Senator Dean: Honourable senator, just like you, I can guarantee nothing. I can't guarantee that tickets will help; they may hinder.

A number of people provided testimony at the Legal Committee. And there is a range of views, as you might expect, on the quality of that testimony. I can only provide to you what I know about the Youth Criminal Justice Act, what those who are experts in the operation of the Youth Criminal Justice Act, in Canada's largest province with a large case load, told me. Their advice was that the federal government has it right, and this is something that we should not be tinkering with because we know it works.

[*Translation*]

Senator Boisvenu: You are leaving it up to each court in every province to determine how to deal with youth? Wouldn't it be wiser for the federal government to remove this possibility right now so that no young person in Canada can be prosecuted under the law?

[*English*]

Senator Dean: First of all, I'm not sure what you're talking about. We're talking about tickets being appended to the Youth Criminal Justice Act.

I will restate: Consistent with the philosophy of this legislation, which I applaud, to create a sophisticated, flexible range of responses to children who come into contact, through cannabis, with the youth justice system, including cancelling on harm reduction and education, which we've heard a lot about in this place, is better than the option in many cases of a quick ticket to get that kid out of the system. That's the problem I have. That's the problem the experts in Ontario have, and it needs to be heard here, and I'm making it clear.

Hon. Lillian Eva Dyck: I, too, am concerned about the effects of cannabis legislation on youth — in particular, Indigenous youth — because we know that in our justice system, including the police, the judges and everyone involved in the criminal justice system, there is a systemic bias. For example, a recent news report based on research from the University of Toronto shows that in Regina, for those arrested for possession of cannabis, there were nine times more Indigenous people arrested than White people. In Toronto there were three times more Black people arrested for simple possession than non-Black people. There's definitely discrimination embedded in our system.

When you have the discretionary power, and you're the police officer, and you get to decide, should I give a ticket or go through the youth criminal justice system, there's the potential there for bias as well, which would then probably, I suspect, favour diverting the Indigenous youth toward the youth criminal justice system. But by the sounds of it, if you were to give that youth the $150 ticket, it would be something they simply could not afford and then they would be diverted back into the court system.

• (1710)

I don't now see the ticketing option as being viable. Senator Dean has just told us that in Ontario the youth criminal justice system is a very robust system that acts very well. I'm assured by that.

This is a question that I would have liked to ask Senator Pate. We also have within the criminal justice system section 718.2(e), which is colloquially referred to as the *Gladue* principle, so that all offenders in the criminal justice system who are found guilty of an offence, especially Aboriginal offenders, are supposed to get extra consideration for the factors in their background that might have brought them before the courts.

For Indigenous youth, then, we should have that available for a youth who appears before the court system, especially in Ontario where you have a robust system. And, according to another news report, there are over 100 *Gladue* report writers in Ontario who could say this youth has come before us and, therefore, this youth should go for some kind of alternative treatment. I am reassured.

Unfortunately, I don't think the *Gladue* courts are evenly distributed throughout the country. In Saskatchewan, we have only one *Gladue* report writer. There should be more. But I think strengthening the *Gladue* reports and the court system's knowledge of section 718.2(e) would alleviate some of the concerns that some of us share about the effects of this bill on Indigenous youth. Therefore, I'm not in favour of the amendment.

Hon. Sandra M. Lovelace Nicholas: Would the senator accept a question?

Senator Dyck: Yes.

Senator Lovelace Nicholas: I'm concerned about Indigenous children as well. The ones who can't afford to pay the $150 fine, of course, as usual, are on social assistance; they're not working because there are no jobs in First Nations communities.

Wouldn't there be a program, like legal aid, for these children who cannot afford a lawyer if they're being prosecuted?

Senator Dyck: I think you asked two questions, one about paying the fine and one about them having legal aid.

With regard to paying the fine, I'm not sure; I'm not the right person to ask that question of. I'm not sure if there are options whereby a fine can be paid by somebody else.

With regard to legal aid, it would be available, but of course it would vary according to whatever community that person was from.

Hon. Kim Pate: I have a question for Senator Dyck, if she still has time.

The Hon. the Speaker *pro tempore*: Yes, she does.

Senator Pate: Senator Dyck, it sounds like you were trying to explain the situation that happens under the Youth Criminal Justice Act, that in addition to the warnings and the ability for police to not lay charges and employ extrajudicial measures, there's also a presumption, I think you may well know, that in fact the judges are supposed to look at every other option before resorting to the criminal justice system. In addition to section 718.2(e), there's an even stronger position within the Youth Criminal Justice Act. Between the two, and combined with the international covenant that Senator Andreychuk referenced earlier, the youth criminal justice system is designed to limit the criminalization of young people. In fact, there are much stronger measures within the youth system to have young people referred to treatment, to social services and/or to the education system before the court considers applying criminal — especially carceral — sanctions. Is that not correct?

Senator Dyck: It sounds pretty correct to me. Thank you.

[*Translation*]

The Hon. the Speaker pro tempore: Are honourable senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker pro tempore: In amendment, it was moved by the Honourable Senator Boisvenu, seconded by the Honourable Senator Patterson, that Bill C-45 be not now read a third time but that it be amended in clause—

Hon. Senators: Dispense.

The Hon. the Speaker pro tempore: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

[*English*]

The Hon. the Speaker *pro tempore*: A room divided. All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: That's much stronger. The amendment is thus defeated. Nobody is standing up, so there's not a vote.

And two honourable senators having risen:

The Hon. the Speaker *pro tempore*: On division? On division. Senators, I'm not being rude, but you have to start paying attention. When I say the amendment is defeated and you're all sitting there asleep, don't get cross with me. Stand up.

Hon. Yonah Martin (Deputy Leader of the Opposition): Your Honour, it was actually hard to hear your question.

The Hon. the Speaker *pro tempore*: Oh, come on.

Senator Martin: It really was. I'm just being honest.

The Hon. the Speaker *pro tempore*: We will do a standing vote, but I want a promise that nobody falls asleep. And when you want to stand up for adjournment, you get up. When you want to vote, you stand up. All right, 15-minute bell.

Call in the senators.

• (1730)

Motion in amendment of the Honourable Senator Boisvenu negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	McInnis
Ataullahjan	McIntyre
Batters	Mockler
Beyak	Neufeld
Boisvenu	Ngo
Carignan	Oh
Dagenais	Plett
Doyle	Poirier
Housakos	Richards
MacDonald	Smith
Maltais	Tannas
Marshall	Tkachuk
Martin	Wells—26

NAYS
THE HONOURABLE SENATORS

Bellemare	Harder
Bernard	Hartling
Black (*Alberta*)	Jaffer
Black (*Ontario*)	Joyal
Boniface	Lankin
Bovey	Lovelace Nicholas
Boyer	Marwah
Campbell	Massicotte
Christmas	McCallum
Cools	McPhedran
Cordy	Mégie
Cormier	Mercer
Coyle	Mitchell
Dawson	Moncion
Day	Munson
Deacon	Omidvar
Dean	Pate
Downe	Petitclerc
Dupuis	Pratte
Dyck	Ravalia
Eggleton	Ringuette
Gagné	Saint-Germain
Galvez	Verner
Gold	Wetston
Griffin	Woo—50

ABSTENTIONS
THE HONOURABLE SENATORS

Greene	Stewart Olsen
Patterson	Wallin
Seidman	White—6

• (1740)

Hon. Dennis Glen Patterson: Honourable senators, I wish to speak to Bill C-45.

One the key themes relating to the legalization of marijuana is the desire to eradicate the black market. As Parliamentary Secretary Bill Blair put it during an interview with Global News on April 8, 2018:

> Displacing the illicit cannabis market is paramount.

This is a clear and consistent message that has been shared since the beginning, and Canadians expect that whatever bill emerges from this place will do exactly that. We are expected to produce a bill that shifts users away from an illicit market.

Mr. Blair also told the Social Affairs Committee:

> We've brought forward what we believe is a very appropriate, strict regulatory framework that will do a much better job protecting our kids and displacing that illicit market.

However, colleagues, when the Canadian Association of Chiefs of Police appeared before the Legal and Constitutional Affairs Committee on March 29, 2018, CACP President, Chief Mario Harel, stated:

> . . . Bill C-45 remains silent on the quantity of cannabis permissible indoors. At this time, in-home possession is virtually unlimited, thereby making it difficult to determine whether the cannabis is derived from a lawful or unlawful source or whether the amount of possession is, in fact, for the purposes of trafficking. Given these issues, we recommend that a limitation on in-home possession be imposed, were such cultivation to become lawful.

Think of it, honourable senators. As the bill is now worded, individuals can fill every room in their house with dried cannabis, which keeps very well. This is bizarre. We're told that this bill will drive the bad guys out of business.

As I travelled through Nunavut, the issue of unlimited amounts allowed in the home was also raised as a concern in communities. Much like the arguments against allowing plants to be cultivated in the home, community members feared an increase in break-ins and warned the bill would only have the opposite effect and enable the illicit market to flourish.

My home region of Nunavut is currently proposing to allow only ordering online or via telephone. The absence of stores and a current lack of a limit of allowable dried cannabis or its equivalent in the home would only serve as a lure, a strong attraction for those waiting for their orders to come in. In reality, these homes with unlimited quantities of dried cannabis will likely also be the only potential source of marijuana for those without access to the Internet or a telephone and a credit card. The underground economy will be given a golden opportunity to thrive if we continue to allow unlimited quantities of marijuana in homes.

In Clyde River, Councillor Gordon Kautuk warned that many in a hamlet where 68 per cent of the population is on social assistance would still likely use dealers, first, in an effort to avoid paying the sales tax. He continued to warn that dealers will supply their own stronger marijuana, with THC levels far exceeding government-regulated plants. He also warned that even in Clyde River, suppliers from the South will undercut government sale prices by supplying in volume and even forgiving shipping costs for volume purchases.

Senators, with no limits to the amount allowed to be stored in the home, we are enabling dealers to continue to stockpile marijuana for those who cannot or, for whatever reason, will not access it through legal channels. I firmly believe that in order to achieve the stated purpose of this bill — to eliminate the illicit market — we need to follow the advice and expertise offered by the Canadian Association of Chiefs of Police.

Deputy Chief Constable Mike Serr, co-chair of the CAPC Drug Advisory Committee, clearly stated:

> Certainly I think it's more challenging for us if we don't have set limits. If someone does have more than perhaps — let's use the three ounces — 12 ounces at home, we would be forming the opinion that they have possession for the purposes of distributing that cannabis. But, again, without having those limitations in place, it really puts more work on the police officers to prove knowledge, to prove the intent, because they are allowed to have as much cannabis as they would like in a private dwelling. So putting some limitations or restrictions would make our job easier and would assist us.
>
> Again, one of the stated goals of this bill is to disrupt organized crime. We know that there are over 300 organized crime groups involved in cannabis distribution and production. It's a $7 billion a year industry. This is a huge issue. Organized crime will not just walk away from this issue, so any tools that we can be given, in law enforcement, to disrupt organized crime will be important to us. Like I said, when we're seeing cannabis coming from an illegal place and large volumes stored in a residence for distribution into the black market, we need some additional tools to assist us in disrupting that.

Based on this testimony, colleagues, would we not want to ensure that law enforcement have all the tools they need within this bill to effectively stamp out the illicit market? Why would we not follow the advice and listen to the clear request from police chiefs throughout Canada to place a limit on the amount allowed in a dwelling place?

Deputy Chief Serr, referred to by the President of CACP as the expert, recommended a cap of 340 grams, since in his experience that is the larger average yield size of four plants.

MOTION IN AMENDMENT NEGATIVED

Hon. Dennis Glen Patterson: Therefore, honourable senators, in amendment, I move:

> That Bill C-45, as amended, be not now read a third time, but that it be further amended in clause 8, on page 7,
>
> (*a*) by replacing line 3 with the following:
>
> "possess cannabis of one or more"; and
>
> (*b*) by replacing line 6 with the following:
>
> "to more than 30 g of dried cannabis, in a public place, or to more than 340 g of dried cannabis, elsewhere;".

The Hon. the Speaker: In amendment, it was moved by the Honourable Senator Patterson, seconded by the Honourable Senator Boisvenu, that Bill C-45, as amended, be not now read a third time, but that it be further amended in clause 8 — shall I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: Are honourable senators ready for the question?

On debate.

Hon. Art Eggleton: At the Social Affairs Committee, the Conservative caucus argued, "How could we ever monitor the number of plants?" They were arguing against having any plants at all — the four plants. They wondered how it can possibly be monitored. How are the police going to be able to do it?

Now they're putting forward a proposal that's even more complicated in terms of how you could possibly monitor this situation. The expert we had in front of the committee, Professor Jonathan Page of the University of British Columbia, said yes, it would be 65 to 85 grams on average, but some plants actually yield up to 200 grams. Four plants, 200 grams? That's way over what you're suggesting they should be allowed to have.

You don't know the yield until after the harvest, so what do you do? Do you bring in the harvest police at that time to figure out how much it is?

I don't think this is something we need to worry about in terms of the criminality of trying to market or traffic this stuff. We don't put a limit on the amount of alcohol someone has in the home. It is a very dangerous drug as well and has caused an awful lot of damage and destruction. Still, we leave it up to adults to work out what is reasonable to do. So we put no limits on how much you can store in your home in terms of alcohol, but this one becomes very difficult, if not impossible, to actually police.

• (1750)

Hon. Donald Neil Plett: What is the question?

The Hon. the Speaker: Excuse me, Senator Eggleton.

It's the policy in this chamber that when the Speaker sits, senators who are standing will take their seats.

Senator Plett, Senator Eggleton is on debate. He's not asking a question of Senator Patterson.

Senator Plett: I apologize.

Senator Eggleton: I accept your apology, Senator Plett. Thank you very much.

This is just not possible to police. What would you do if you were over the limit? How would you dispose of it? That is another question.

I don't want that to happen any more than you do, but what the police have been able to do in the past is find the grow ops because they drain a lot of electricity and water. The police have figured out ways of detecting and policing those kinds of illegal operations.

This is not what this amendment is about. This one is about somebody that happens to grow a little bit more than what they should, and if you put this 340-gram limit on it, some people will end up harvesting more than that because they might have a particularly productive plant and it goes over the limit.

I don't think that's what we need here at all. I think the provisions in this bill are quite fine the way they are, so I will not be supporting the amendment.

The Hon. the Speaker: Would you take a question, Senator Eggleton?

Senator Eggleton: Sure.

Hon. Vernon White: There is one difference with alcohol, in that you're not limited as to how much alcohol you can buy, but you are limited under Bill C-45, if it passes as is, to four plants. So we should at least have a discussion about how much yield you would get from four plants, because that is the difference when we compare it to alcohol. You can't limit how much someone has in their house, but the truth is we're already limiting people and telling them four plants only. If you're allowed four plants, then there needs to be a measured amount of dried cannabis, and 340 grams, from speaking to experts, is about what you should anticipate you could yield from four plants.

Would you agree that there is a difference between alcohol and cannabis?

Senator Eggleton: Certainly there is a difference in how you count it, but I think the principle is that we allow adults to make their own decisions about what is, in fact, a reasonable quantity to have for their own personal use within their home. We do that with alcohol, and I think it's reasonable to do in this case.

If people go overboard and if they're starting to produce it for trafficking purposes and they're getting into the realm of a grow op, then that is illegal, and it should be clamped down on.

Senator White: I understand that concern. But the adults that we will be concerned with are the Hells Angels and others in organized crime who will be stockpiling marijuana and cannabis product for distribution. You could have 200 pounds of cannabis in your residence. I would argue that we need to have a limitation that goes in line with what the legislation is meant to do, which is recreational cannabis use. With 340 grams, we're talking about 450 joints. I think it is more than enough for most people I know. Do you not agree?

Senator Eggleton: Sorry, I'm afraid not. I do appreciate the point you're making, though.

I think it is far more difficult to deal with this. We're dealing with home cultivation. Home cultivation is intended for personal use. It's not intended for distribution. That is illegal. Trafficking is illegal under this bill, as it has always been and will continue to be. If the Hells Angels want to stash it for purposes of distribution, the police will go in to stop that.

Senator White: I understand that perfectly. I think I'm trying to get to the point of what is the number. Do you have a number for us? If you do, throw it out. Is it 500 grams or a kilo? Because now you're saying it's unlimited.

Senator Eggleton: I don't understand why this is being raised now. I think the legislation covers this. This matter was not raised at committee. The only argument that was made at committee was whether there should be four plants or no plants. We ultimately decided that the provinces should have the right to determine whether it's no plants at all. Before the amendment from committee, it could be four, three, two, one, but it couldn't be zero. Now it can be zero because Quebec and Manitoba want it to be zero. There was never any question about this particular factor, and I think the legislation handles it. You should have brought it up at committee.

[*Translation*]

Hon. Renée Dupuis: I would like to ask Senator Eggleton a question.

The Hon. the Speaker: Senator Eggleton's time has expired. Do you wish to speak Senator Dupuis?

Senator Dupuis: Yes, I am going to rise to say that I do not understand the text of the amendment presented to us and that I do not have the time to study it. I have a problem with how it describes the quantity of 340 grams that an individual can possess anywhere other than a public place, based on my understanding of this amendment.

I would also like to talk about the clause that states that an individual can grow no more than four plants in their home. The clause on cultivating and growing states that no more than four plants can be grown, while proposed paragraph 8(a) is not consistent with paragraph 8(e). I do not understand how that can work. In theory, several individuals could have a total of 340 grams in a private location, but does that resolve the matter for police? It is not just about one number. The number cannot be completely arbitrary and cannot be multiplied by the number of people in an enclosed space because it is not a public place.

In other words, I do not believe that the amendment is well written. Since I have the impression that we will not have the time to examine this issue after today, I will vote against this amendment.

[*English*]

Hon. André Pratte: I want to follow up, Senator Dupuis, because I have been concerned with the lack of a limit on dried cannabis in a dwelling house for quite a while. I expected this amendment and am in favour of it, except the wording is not what I expected. I expected there would be a limit of not more than a number, whatever that number is, of dried cannabis in a dwelling house. That's what I was expecting. Now I see it's no more than 340 grams of dried cannabis elsewhere, or *à tout autre endroit* in French.

Frankly, the way I understand it is, for instance, you could be at a friend's home and you would have the right to have 340 grams, and that friend and other friends would each have the right to have 340 grams. But as I heard from Senator Patterson, that's not the intention of the amendment. The intention of the amendment is in your house you would have the right to have 340 grams, but that's not what the amendment says. The amendment says that elsewhere, anywhere else than in a public place, you can have 340 grams.

Unless I misunderstand, there's a drafting problem. "Elsewhere" seems to be a lot of other places, and I'm not sure this really addresses it.

Again, I'm favourable to the idea of a limit in a dwelling house, but unfortunately that's not what the amendment says. Unless someone in the debate can reassure me that the wording here is not what I understand the amendment to say.

Hon. Paul E. McIntyre: Senator Pratte, I hope I will be able to answer your question.

• (1800)

Honourable senators, I rise today in support of Senator Patterson's amendment to limit the possession of dried cannabis in a dwelling house.

The Standing Senate Committee on Legal and Constitutional Affairs, of which I am a member, made a unanimous recommendation to limit the possession of dried cannabis in a dwelling house. This unanimous recommendation was an observation adopted at the Social Affairs Committee study of Bill C-45 on May 28, 2018.

The Legal Affairs Committee heard evidence that the lack of a limit on the possession of dried cannabis in a home might prevent law enforcement agencies from identifying an illegal cannabis operation. I support the recommendation of the Standing Senate Committee on Legal and Constitutional Affairs to amend the bill to impose a limit on the quantity of dried cannabis, or its equivalent, that an individual is allowed to possess for personal use in a dwelling house.

The Canadian Association of Chiefs of Police advocated for the prohibition of home cultivation given the difficulty of enforcing four plants in a dwelling house. There were also concerns raised with the lack of a limit for dried cannabis in a dwelling house.

Mike Serr, Deputy Chief Constable, Drug Advisory Committee, Canadian Association of Chiefs of Police, stated that there needs to be a limit for what can be possessed in a dwelling house in order to prevent diversion to the illicit market. He suggested that on the high side, four cannabis plants will produce 12 ounces of cannabis, which is 340 grams, 1 to 3 ounces per plant.

Quebec has introduced legislation that sets the limit for what can be stored in a dwelling house for dried cannabis at 150 grams. This would be ideal. However, since some provinces have not opted to prohibit home cultivation of cannabis plants, there needs to be a limit based on how much four cannabis plants produce. For this reason, the proposed amendment would suggest a limit of 340 grams based on witness testimony from the Canadian Association of Chiefs of Police, Mike Serr, Deputy Chief Constable.

The position is to prohibit home cultivation, and Quebec has gotten it right by prohibiting home cultivation and proposing a limit of 150 grams. At the same time, the government needs to set a reasonable limit for the maximum four plants produced, giving police forces the necessary tools to prevent the diversion of illicit cannabis. It is imperative that every possible step be taken to prevent organized crime from taking advantage of either home grow or the storage of marijuana in private residences.

Colleagues, I would end on this note. Senator Patterson in his speech cited Mike Serr, the deputy chief. I will just repeat a couple of lines of that citation. Here's what the deputy chief constable had to say:

> But, again, without having those limitations in place, it really puts more work on the police officers to prove knowledge, to prove the intent, because they are allowed to have as much cannabis as they would like in a private dwelling.

Colleagues, the constable used the words "knowledge" and "intent." These are very important because in a criminal trial, the onus of proof is on the Crown. It has to prove its case beyond a reasonable doubt. For example, if a police officer walks into a dwelling house and sees a large amount of cannabis, they have to prove either possession beyond a reasonable doubt or possession for the purpose of trafficking beyond a reasonable doubt or trafficking beyond a reasonable doubt. So there's a heavy onus on the Crown here.

This is why he is saying to prove the knowledge, to prove the intent, because they are allowed to have as much cannabis as they would like to have in a private dwelling. So let's protect society here and let's give the police forces the tools to work with.

Hon. Gwen Boniface: I'm wondering if the senator would take a question.

Senator McIntyre: Yes, I would.

Senator Boniface: Senator, I appreciate your comments. As you know, I'm a member of the Legal and Constitutional Affairs Committee. I think what we're trying to narrow down here is the definition, and the definition, as I read it in the amendment, says "elsewhere." I'm wondering if you can give me an understanding of what "elsewhere" is. If you had within the proposed amendment "private dwelling" or "residence" or something that would provide a clearer understanding, I think it would make more sense. I'm asking if you can give me a sense of the definition of "elsewhere" and, in turn, where we would use "elsewhere" in other parts of the Criminal Code.

Senator McIntyre: I don't have the exact definition of what you're looking for, senator. But as you know, we heard from a lot of witnesses in March and April of this year, one of whom was John Dickie, President of the Canadian Federation of Apartment Associations, on April 29. Here's what he had to say:

> . . . a substantial amount of cannabis can be harvested from a single plant of less than one metre in height. This site describes the "screen of green technique" called ScrOG in which a grower takes a plant, puts a chicken-wire mesh above it and cuts off the top. Then the plant sprouts widely. So from one plant, you could be covering an area a yard or more wide as well as deep, and you could grow considerable marijuana with that technique.
>
> The site suggests a single plant can yield up to a pound — 500 grams — of dried cannabis. Given two or three months for a plant to be ready for harvesting, that would allow four or six crops a year. That would enable someone to grow 16 to 24 pounds of cannabis per year, which is substantially more than anyone would ever use personally.
>
> There are also issues with respect to drying it in ovens, which again adds to power draw. These things lead to potential electrical problems and fire safety problems.

That's the best statement I can give you.

Senator Boniface: As a follow-up, I understand the four plants. I was actually one of the people who voted against having home grow.

The point I'm trying to get to, because I'm very sympathetic to this, as you would expect, given my background, the motion uses the word "elsewhere." It doesn't use "dwelling house" or terminology that I would be familiar with in the Criminal Code. I'm wondering if "elsewhere" —

Senator Plett: Anywhere.

Senator Boniface: Sorry, I missed the answer.

Senator Plett: I'm not giving the answer. It's just a suggestion.

Senator McIntyre: Perhaps, senator, we could have an amendment on that issue, if you have one.

The Hon. the Speaker: Senator Omidvar, did you want to enter the debate or ask a question?

Hon. Ratna Omidvar: Thank you. I was following up on Senator Boniface's question. I didn't hear the answer to "elsewhere" and the little word after dried cannabis, comma, "elsewhere." It's not a public place, so where else is this? Can you help us out with this a little more clearly?

Senator McIntyre: I didn't get your question properly. I'm sorry.

Senator Omidvar: We're still on the same question Senator Boniface asked you, which is what does "elsewhere" mean?

Senator McIntyre: Well, I'll be honest with you. It's not my amendment. I was asked to speak in support of it, and I'm proud to do that.

To me, we're talking here about a dwelling house, okay. You're talking about a structure. You could be talking about a house or an apartment, but my understanding is that it's the structure itself. It's the dwelling house.

The Hon. the Speaker: Are senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: Senator Woo, on debate?

Hon. Yuen Pau Woo: Yes. In the spirit of my previous intervention, thinking out loud again, looking at this amendment and wondering about unintended consequences, I want to share with you some of my conflicting thoughts.

I understand the intent of the amendment, which is to provide police with a way in which they don't have to divine intent. They can simply go to an elsewhere place, whatever that may be — let's call it a dwelling for the sake of argument — and if they see there is more than 340 grams, they have a basis for taking action.

• (1810)

Implicitly, by putting forward that idea, what we are saying is we are not actually concerned about possession. We're concerned about trafficking. We're concerned about illicit use of cannabis. But by solving one problem, which is to help police have a simple decision rule to go in and take action, you create another problem, which is that you could well have lots of people inadvertently having more than 340 grams — maybe even one kilogram — who have no intention of trafficking and who would then find themselves vulnerable to, I think, criminal prosecution. Then all the problems of discrimination and prejudice will come about again.

I fear that we may be rushing into an amendment without sufficient thought, without sufficient expert testimony and with a lot of ambiguity, first of all, on the term "elsewhere."

Even more concerning is the possibility that there could be unintended consequences where many individuals inadvertently storing more than 340 grams will be prosecuted simply because they had more than 340 grams.

The Hon. the Speaker: Are senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator Patterson, seconded by the Honourable Senator Boisvenu, that — I'm sorry, on debate?

MOTION IN SUBAMENDMENT NEGATIVED

Hon. Vernon White: Therefore, honourable senators, in amendment, I move:

> That the motion in amendment moved by the Honourable Senator Patterson be amended by replacing the word "**elsewhere**" with the words "**a dwelling-house**".

Senator Ringuette: Do you have that in French?

[*Translation*]

Senator White: It's "maison".

[*English*]

The Hon. the Speaker: It was moved by the Honourable Senator White, seconded by the Honourable Senator Doyle, that the amendment be further amended by changing the word "elsewhere" to "dwelling-house."

[*Translation*]

In French, "maison".

[*English*]

Are senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: There will be a 15-minute bell on the subamendment. The vote will take place at 6:28p.m.

Call in the senators.

• (1830)

The Hon. the Speaker: Honourable senators, before putting the question and for future reference, no amendment or subamendment will be accepted unless it is submitted in writing in both official languages.

Subamendment negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Mockler
Ataullahjan	Neufeld
Batters	Ngo
Beyak	Oh
Boisvenu	Patterson
Carignan	Plett
Dagenais	Poirier
Doyle	Seidman
Griffin	Smith
Housakos	Stewart Olsen
MacDonald	Tannas
Maltais	Tkachuk
Marshall	Verner
Martin	Wallin
McInnis	Wells
McIntyre	White—32

NAYS
THE HONOURABLE SENATORS

Bellemare	Harder
Black (*Alberta*)	Hartling
Black (*Ontario*)	Jaffer
Bovey	Joyal
Boyer	Lankin
Campbell	Lovelace Nicholas
Christmas	Marwah
Cools	McCallum
Cordy	McPhedran
Cormier	Mégie
Coyle	Mercer
Dawson	Mitchell
Day	Moncion
Dean	Omidvar
Downe	Pate
Duffy	Petitclerc
Dupuis	Pratte
Dyck	Ravalia
Eggleton	Ringuette
Gagné	Saint-Germain
Gold	Wetston
Greene	Woo—44

ABSTENTIONS
THE HONOURABLE SENATORS

Bernard	Galvez
Boniface	Richards—5
Deacon	

The Hon. the Speaker: Are senators ready for the question on the amendment?

Senator Plett: Your Honour, I know we'll have a voice vote first, but I'm wondering with leave and if we would have unanimous consent after the voice vote, would it be possible for us to immediately go to the vote since we're all here instead of having another 15-minute bell?

The Hon. the Speaker: Obviously we have an agreement for a 15-minute bell, but, Senator Plett, if there is leave from the Senate, we will conduct the standing vote immediately after the voice vote.

Is that agreed, honourable senators?

Hon. Senators: Agreed.

The Hon. the Speaker: It is moved by the Honourable Senator Patterson, seconded by the Honourable Senator Boisvenu, that Bill C-45 be not now read a third time but that it be amended — shall I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

I see two senators rising.

And two honourable senators having risen:

We will go to a standing vote immediately.

Motion in amendment of the Honourable Senator Patterson negatived on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Mockler
Ataullahjan	Neufeld
Batters	Ngo
Beyak	Oh
Boisvenu	Patterson
Carignan	Plett
Dagenais	Poirier
Doyle	Seidman
Housakos	Smith
MacDonald	Stewart Olsen
Maltais	Tannas
Marshall	Tkachuk
Martin	Wells
McInnis	White—29
McIntyre	

NAYS
THE HONOURABLE SENATORS

Bellemare	Gold
Black (*Alberta*)	Harder
Black (*Ontario*)	Hartling
Boniface	Jaffer
Bovey	Joyal
Boyer	Lankin
Campbell	Lovelace Nicholas
Christmas	Marwah
Cools	McCallum
Cordy	McPhedran
Cormier	Mégie
Coyle	Mercer
Dawson	Mitchell
Day	Moncion
Deacon	Omidvar
Dean	Pate
Downe	Petitclerc
Duffy	Pratte
Dupuis	Ravalia
Dyck	Ringuette
Eggleton	Saint-Germain
Gagné	Wetston
Galvez	Woo—46

ABSTENTIONS
THE HONOURABLE SENATORS

Bernard	Richards
Greene	Verner
Griffin	Wallin—6

• (1840)

The Hon. the Speaker: Resuming debate on the main motion.

Hon. Vernon White: Honourable senators, today I'm going to present an amendment in the form of an addition to the legislation, Bill C-45. It was discussed in a similar form during discussion and decision in the committee, and I'll discuss the difference slightly and the rationale for the proposed amendment.

This amendment pertains specifically to the retention of cannabis plants by law enforcement or inspectors who seize said plants under lawful authority, for example a court order obtained through a search warrant.

In practical terms, police officers seize cannabis plants from a residence under authority of a search warrant which grants the seizure of those plants. Today, under the authority the police possess pre-Bill C-45, the police would cut down those plants and secure them, in whole or in part, for court purposes. This amendment I'm presenting to Bill C-45 would allow law enforcement or inspectors to do it in the same manner by cutting the plants rather than maintaining them in a growth form. The police would still be required to maintain whatever evidence is necessary for proceedings. Today it is believed that Bill C-45 does not sufficiently cover the ability for law enforcement to cut the plant for storage and seizure. This was presented in committee and discussed with the authorities.

I would argue that absent my amendment, the police would be expected to maintain the plant in the seized form as a living plant. It may not seem difficult, but the impact to the police would be that they would be expected to build greenhouses, hire staff and contract others to maintain the evidence in a living form.

This would mean an extraordinary expense to the police or inspectors, and the legislation is not feasible, practical or necessary. I say "feasible" because the costs could be exorbitant. I say "practical," as we do not do this now under similar lawful seizures. We cut the plant, often keep a small amount with photographic evidence and then destroy the remainder. I would say it is not necessary as this amendment would add a section that would allow for people who have a lawful claim following proceedings to be granted reimbursement for their loss, if appropriate, as is required in fact in law in other cases.

The other reality is that should law enforcement be required to maintain the living plant, the issue of storage, as I've said, becomes a reality. As well, the harvesting of the plant material could be argued, and the return of the six-foot plant two years later, along with 200 pounds of marijuana, could be a real problem for the police.

My amendment would allow officials to cut down the plants seized as they do now under federal legislation and protect the public through a level of reimbursement offered in the amendment, and it could be determined that the person who was to have legitimately received the plants would actually be made whole again through this amendment.

Thank you very much.

MOTION IN AMENDMENT ADOPTED

Hon. Vernon White: Therefore, honourable senators, in amendment, I move:

> That Bill C-45, as amended, be not now read a third time, but that it be further amended on page 69, by adding the following after line 35:
>
> "**108.1 (1)** A peace officer, inspector or prescribed person who seizes, finds or otherwise acquires a cannabis plant in the course of the administration or enforcement of this Act or any other Act of Parliament is not obligated to maintain or preserve it.
>
> **(2)** If a cannabis plant that is ordered to be returned under section 103 or 107 has perished or been disposed of, an amount equal to its value must be paid to the person to whom its return is ordered.".

The Hon. the Speaker: It was moved by the Honourable Senator White, seconded by the Honourable Senator Doyle, that Bill C-45, as amended, be not now read a third time, but that it be further amended on page 69 — shall I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: Do you have a question, Senator Eggleton? Senator White, would you take a question?

Senator White: Absolutely.

Hon. Art Eggleton: This is a different amendment than we considered at the Social Affairs Committee. First of all, it has "cannabis plants" instead of "cannabis," which is a broader definition. It also has, if it has to be disposed of and if ultimately it was found to be wrongly taken in, that an amount equal to its value is to be paid out. So there is compensation.

However, the clause right after the clause you're amending, 109(1), says that the police can dispose but they have to send a report to the minister. Isn't it covered, and isn't it better that the minister has that kind of control over it instead of an automatic disposal?

Senator White: Thank you very much for the question. It's not the manner in which we would do it today. I guess what I'm trying to do is at least have — whether it's through a seizure of drugs or other measures and other acts — the same process to follow.

Today, if we were to enter into a residence with 100 plants on a grow operation, we would chop the plants down and remove them from the residence, and if it were found later to be a medical marijuana facility, for example, and lawful, we would have to reimburse. I'm trying to get this in place where it is similar to other legislation that we operate under.

I also think to burden an administrative system with approval through the minister would be cumbersome at best because we're probably talking about small amounts.

The Hon. the Speaker: Are senators ready for the question? Senator Omidvar, question or on debate?

Hon. Ratna Omidvar: A question for Senator White if he will take one.

Senator White: Yes, please.

Senator Omidvar: I understand that we don't want police officers to become gardeners. I get that. What happens in a criminal trial if you've destroyed the evidence that needs to be presented?

• (1850)

Senator White: Just to be clear, if we were to seize 100 plants today, we wouldn't bring 100 marijuana plants into the court. We would bring in a small portion and photographic evidence to explain what was seized. That's the way we would do it today.

To be honest, I'm not suggesting that they're able to destroy evidence. There's already legislation that allows for how they have to maintain evidence and how they have to present it in court. The issue is live plants. That's really the concern in this amendment — specifically live plants and nothing more.

Hon. Marc Gold: Would you take a question?

Senator White: Always.

Senator Gold: You mentioned in your response earlier that you wanted to not require a report to the minister, but the provisions of the act do not appear to require the approval of the minister, just a report to the minister. Do I read it correctly?

Senator White: If I may, I didn't actually read that to you; it was read in a question. I don't have that in front of me. I was repeating what I had heard.

Hon. Gwen Boniface: Would the senator take a question?

Senator White: Absolutely.

Senator Boniface: Senator White, could you tell me of any other sections in the Criminal Code where provisions would exist for the destruction of evidence in that type of circumstance?

Senator White: Thank you. As I discussed, there are those in relation to seizure of marijuana plants. I have been involved in investigations for the seizure of explosives. To suggest for a minute that the police should have kept that in the form it was in for the next three years while they go through trial, that could have been explosive. Instead, we were able to destroy that and just keep the evidence we required, just to prove the case in court. It was not to maintain that evidence in the form in which we had first seized it.

Hon. Frances Lankin: Senator White, I certainly don't think we would want an outcome that would require police services to maintain live plants for evidence. I can't see how the act compels that. I heard a bit of this at committee when I was there, and we went through all of the provisions that currently take place; for example, I remember when the old Molson plant near Barrie was raided. It had been operating to the side of the highway for all those years as a grow op. They ripped them all out of the pots. They came out with them in garbage bags, and there were lots of video and still photographs, et cetera.

We don't expect police forces to do it now. When I read the legislation and look at the expedited disposition under clause 105 and destruction of plants under clause 106, I don't see anything that compels police forces to maintain the plants for evidence that would negate the current practice.

Can you explain where it provides for that and what we're trying to correct in the language?

Senator White: Thank you for the question. In the absence of allowing us to destroy it, the Canadian Association of Chiefs of Police and others have identified that they would like to see the legislation be clear about what can be done. All we're trying to do is be clear about what the police can do. Their belief wasn't — and it was not presented in the committee, from the transcript — presented that, "No, you're wrong. You actually can destroy it." That wasn't presented by the officials.

If I say anything about the committee, they spent too much time speaking about the word "cannabis" and not enough time speaking about "cannabis plants." If they had focused their energy on "cannabis plants," this probably would have been an amendment that would have been made through committee rather than being brought here. But the discussion was on "cannabis" until the very last page of the transcript.

The Hon. the Speaker: Senator White's time has expired.

On debate, Senator Eggleton.

Senator Eggleton: I appreciate what you're saying about grow ops, and those are massive quantities. There is a process in place. But we're also bringing home cultivation into the picture, where they might be seizing one or two plants over the four plants.

I just want everyone to know what we heard at committee when we questioned this. We were particularly questioning about cannabis in general, but there was the question of the plants that kept coming into it, as we had the amendments in front of us.

Paul Saint-Denis, Senior Counsel, Criminal Law Policy Section, Department of Justice Canada, said that he thought it was somewhat contradictory to tell the police, on one hand, you can seize this, but you're not responsible for maintaining it. This would put the police in conflict with some provisions of the Criminal Code.

Diane Labelle, General Counsel with Health Canada Legal Services at Justice, said that law enforcement can ask for these cannabis plants to be destroyed.

I think Senator Gold is quite right about the reading of 109.1; it's to report to the minister. I don't know about the approval being necessary, but this is what legal services at Justice told us: Law enforcement can ask for these cannabis plants to be destroyed. In other words, it would be displacing a lawful regime for a lawful disposition.

I just point out that was part of the testimony we had at the Social Affairs Committee.

The Hon. the Speaker: Are senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: It was moved by the Honourable Senator White, seconded by the Honourable Senator Doyle, that Bill C-45 be not now read a third time, but that it be amended on page 69 — shall I dispense?

Hon. Senators: Dispense.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Agreed.

Some Hon. Senators: No.

The Hon. the Speaker: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker: In my opinion, the "nays" have it.

And two honourable senators having risen:

The Hon. the Speaker: We have a 15-minute bell. The vote will take place at 7:11.

Call in the senators.

• (1910)

Motion in amendment of the Honourable Senator White agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Marshall
Ataullahjan	Martin
Batters	McInnis
Beyak	McIntyre
Black (*Ontario*)	Meckler
Boisvenu	Neufeld
Boniface	Oh
Campbell	Patterson
Carignan	Plett
Christmas	Poirier
Cordy	Seidman
Coyle	Smith
Dagenais	Stewart Olsen
Doyle	Tannas
Galvez	Tkachuk
Greene	Verner
Griffin	Wallin
Housakos	Wells
MacDonald	White—39
Maltais	

NAYS
THE HONOURABLE SENATORS

Bellemare	Lovelace Nicholas
Bernard	Marwah
Black (*Alberta*)	McCallum
Bovey	McPhedran
Boyer	Mégie
Dawson	Mercer
Day	Mitchell
Deacon	Munson
Dean	Omidvar
Downe	Pate
Dupuis	Petitclerc
Eggleton	Pratte
Gagné	Ravalia
Gold	Richards
Harder	Ringuette
Jaffer	Saint-Germain
Joyal	Sinclair
Lankin	Woo—36

ABSTENTIONS
THE HONOURABLE SENATORS

Cormier	Moncion
Dyck	Wetston—5
Hartling	

FEDERAL SUSTAINABLE DEVELOPMENT ACT

BILL TO AMEND—FIRST READING

The Hon. the Speaker informed the Senate that a message had been received from the House of Commons with Bill C-57, An Act to amend the Federal Sustainable Development Act.

(Bill read first time.)

The Hon. the Speaker: Honourable senators, when shall this bill be read the second time?

(On motion of Senator Harder, bill placed on the Orders of the Day for second reading two days hence.)

• (1920)

CANNABIS BILL

BILL TO AMEND—THIRD READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Dean, seconded by the Honourable Senator Dupuis, for the third reading of Bill C-45, An Act respecting cannabis and to amend the Controlled Drugs and Substances Act, the Criminal Code and other Acts, as amended.

Hon. Donald Neil Plett: Honourable senators, I also rise today to speak to third reading of Bill C-45.

The responsibility lies upon all of us in this chamber to ensure that when cannabis is legalized, it is backed by a legislative framework that will keep our citizens, most importantly our children, safe. This is a goal that the Liberal government has repeatedly stated is paramount, yet they have fallen short in a number of areas.

However, I know that the protection of youth is a goal shared by all members of this chamber. Colleagues, last week during clause-by-clause consideration of this bill, Senator Bernard proposed a two-part amendment that sought to ensure that our Canadian youth were not unduly criminalized. Senator Bernard's amendment dealt with two issues regarding the use and consumption of cannabis by minors.

Bill C-45 reads:

> . . . it is prohibited for an individual who is 18 years of age or older . . . to distribute cannabis to an individual who is under 18 years of age . . . .

The first section of Senator Bernard's amendment sought to void this provision of the bill in the event that the individual over the age of 18 was less than two years older than the individual to whom they distribute cannabis.

In committee, Senator Bernard carefully presented the intent of her amendment, citing the prevalence of the social sharing of cannabis among youth who are close in age. As Senator Bernard stated, it is quite common for young adults to have friends and peers that are slightly younger. Thus, we do not want to unduly criminalize individuals of these ages for sharing their cannabis with their peers in a social situation.

In effect, this amendment would allow an 18-year-old to share their legally purchased cannabis with an individual as young as 16 years of age without any repercussion.

This amendment does not lessen the punishment, colleagues, it eliminates it. It makes it lawful, permissible for an 18- or 19-year-old to share cannabis with their younger friends who are not of legal age.

As Senator Bernard stated in committee, the penalty associated with providing cannabis to a minor carries a prison sentence of up to 14 years. Of course, the maximum sentence would be for the most egregious of cases, not the minor incidents that Senator Bernard is referring to in her description of social sharing.

As I stated, this amendment makes the practice of an 18-year-old sharing marijuana with a 16-year-old absolutely lawful. Further to that, colleagues, most alarmingly, there is no cap on the amount of cannabis one can provide in this context.

While the sentiment is entitled "social sharing," which was to capture the practice of an 18- or 19-year-old sharing a bit of marijuana in a social setting, with Senator Bernard's amendment, an adult of this age can provide literally any amount of cannabis to their younger peers. This will be known, and make no mistake, colleagues, it will be abused.

Keep in mind, there is no such exemption in any province if an of-age adult buys alcohol for a younger peer. It is well known among Canadian youth that this is against the law, as it should be. There is no reason why sharing marijuana should be subject to a different standard.

While they may be peers, at the end of the day this law applies to adults and their provision of cannabis to minors. There must be consequences, colleagues. And no, those consequences, in the very limited circumstances outlined by Senator Bernard, should not consist of a serious indictable criminal offence.

With respect to the second part of Senator Bernard's amendment, I do not personally support parents being permitted to provide their teenaged children with marijuana, as I believe the medical community has been clear on the impact of this drug on developing brains.

However, we do not have such exceptions for alcohol in every province in which a parent or guardian in their dwelling house can provide alcohol to their child 16 years of age or older. For the sake of consistency and reasonableness in law, I leave this provision alone.

However, there is no precedent for the proposal respecting social sharing among peers. This amendment simply cannot stand as is. There needs to be responsibility and accountability surrounding cannabis, end of story.

I am proposing that we do not make social sharing from an adult to a minor peer strictly permissible and lawful, but that we reinstate a penalty that is drastically reduced from the bill's original proposal.

We worked with the Law Clerk's office to come up with what we believe to be an appropriate solution. In honouring the spirit of the social sharing proposal, we have kept the two-year proximity limit for sharing among peers, and we make it clear that this individual is not to be prosecuted by indictment. Instead, we concluded that ticketing would be an appropriate option for police and have left the summary process as already outlined in the legislation intact. But there will not be an indictable offence associated with social sharing.

In this amendment, we have also provided a limit to social sharing. For consistency, we used the 5 grams of marijuana, which is provided for elsewhere in the bill, when it comes to youth possession. Five grams, colleagues, is a lot of marijuana. As we have repeatedly heard, that is 10 joints. That, colleagues, is a very generous cap on social sharing.

Beyond that, any adult who provides a minor with cannabis in excess of 5 grams, regardless of proximity in age, will not be covered under this social sharing provision and will be guilty of an indictable or summary offence, as already outlined in the legislation.

MOTION IN AMENDMENT ADOPTED

Hon. Donald Neil Plett: Therefore, honourable senators, in amendment, I move:

That Bill C-45, as amended, be not now read a third time, but that it be further amended

(*a*) in clause 9,

(i) on page 10, by replacing subsection (2.1) (added by decision of the Senate on May 30, 2018) with the following:

"**(2.1)** Subparagraph (1)(a)(ii) does not apply if the cannabis is distributed to an individual who is 16 years of age or older by their parent or guardian in their dwelling-house.", and

(ii) on page 11, by adding the following after line 6:

"**(5.1)** Despite paragraph (5)(a), a charge arising out of a contravention of subparagraph (1)(a)(ii), in respect of cannabis of one or more classes of cannabis the total amount of which, as determined in accordance with Schedule 3, is equivalent to 5 g or less of dried cannabis, is not to be prosecuted by indictment if the accused is less than two years older than the individual referred to in that subparagraph.";

(*b*) in clause 51, on page 29, by adding the following after line 20:

"**(a.1)** proceedings in respect of an offence arising out of a contravention of subparagraph 9(1)(a)(ii), in respect of cannabis of one or more classes of cannabis the total amount of which, as determined in accordance with Schedule 3, is equivalent to 5 g or less of dried cannabis, if the accused is less than two years older than the individual referred to in that subparagraph;"; and

(*c*) on page 127, by replacing the references after the heading "**SCHEDULE 3**" with the following:

"(Subsection 2(4), paragraphs 8(1)(a) and (c), subparagraphs 9(1)(a)(i) and (b)(i), paragraphs 51(2)(a), (a.1) and (c) to (f) and subsection 151(2))".

The Hon. the Speaker *pro tempore*: In amendment, it was moved by the Honourable Senator Plett, seconded by the Honourable Senator Martin, that Bill C-45 be not now read a third time but that it be amended (*a*) in clause 9 —shall I dispense?

Some Hon. Senators: Dispense.

Hon. Jim Munson: Question.

The Hon. the Speaker *pro tempore*: Senator Plett, would you accept a question?

Senator Plett: Yes, certainly.

Senator Munson: Senator Plett, how would you enforce this? A policeman in every home?

Senator Plett: Well, I wouldn't enforce it, number one. I am astounded by that question. How is giving alcohol away enforced?I'm not suggesting that parents are not allowed to give the marijuana to their children. I've stated that, as you obviously heard.

• (1930)

This is for people giving marijuana to 16-year-olds. How do police enforce when an 18-year-old gives alcohol to a 16-year-old? We have fine law enforcement officers who I expect will do their absolute best to enforce the law as is intended.

Hon. Wanda Elaine Thomas Bernard: Honourable senators, I'm speaking against Senator Plett's amendment to my amendment. The amendment I made at the Social Affairs Committee study of this bill created an exemption to any criminal penalties for social sharing among young people. Let's keep in mind, colleagues, that we're talking about sharing a legal substance, if this is legalized.

This was a recommendation that was made by the task force, and they noted that there should be an exclusion for social sharing. "Social sharing" typically means the sharing of one joint in a social context.

We heard from witnesses that the bill, as it was worded, would be problematic in this way. Criminal defence attorneys Friedman and Robichaud talked about the need to do all we could to decriminalize and focus on education for young people.

Another criminal lawyer we heard from, Mr. Tousaw, talked about the close-in-age issue as being a very serious one — social sharing.

However, I believe that the most compelling evidence came from a young person herself. Many senators and witnesses have talked about protecting young people and decriminalizing because of our concern for young people. We didn't hear directly from many young people as expert witnesses. We heard people speak about them.

The young woman whose testimony I want to share is named Kristen Szekszardi. She gave evidence to the Social Affairs Committee on Wednesday, April 25. She is an advanced peer worker and an alumni of Eva's Initiatives. She said:

> I am a 25-year-old Advanced Peer Worker based out of Eva's Satellite in Toronto.

Her testimony is compelling, and she was speaking not just about her own experience but based on her work with other young people as well. She said:

> I believe that having peer programs in the schools, community support groups and educational workshops will benefit young users compared to being charged for something most young people do at some point in their lives anyway. Why would we charge a 14-year-old with marijuana charges when we really need to see why they are using in the first place and how we can help them make other choices? Through all this, I've never been arrested for weed charges. I think if I would have had charges when I was under 18, or even now, it would have held me back in my progress. The laws should be supporting young people, not penalizing them.
>
> Living in the youth shelter, ages range from 16 to 24. In accordance to the laws being implemented, if I were to give my friend who's under age 18 a joint or some weed, I could potentially be charged with an indictable offence. These friends come to me to get advice or use smartly, but now this law will put me at risk of getting a criminal record. Do I risk a criminal record or risk potential harm to an uneducated friend?
>
> I'm working toward getting my security licence as well as becoming a community worker. This would severely hinder my progress and potentially close many doors for me.

Of course that's the message we heard from many adults who are seeking to protect young people.

So the close-in-age issue, if we were to support this amendment, we would be opening the door again for discretion, and we've already heard from many honourable senators who have spoken about the systemic discrimination that we know follows discretion; so even the ticketing that's being proposed.

We're not talking about trafficking; we're talking about social sharing, which is totally different.

I will not be supporting the proposed amendment.

Hon. Lillian Eva Dyck: Thank you for your comments, Senator Bernard. I was following the discussion about social sharing, and I understand that, but the question in my mind is this: What if it's a person who is less than two years older but not necessarily a friend who might actually be someone linked to a drug dealer, whose intentions are not so innocuous, and the intention is to entice the person to get them hooked?

It sounds like this amendment doesn't make that distinction between social sharing, which is one thing, versus a deliberate intention to entice the person. It's only talking about age, not intention.

Senator Bernard: Of course, the whole question of intention is difficult to get to. One thing we know would clearly need to happen is education. Education about safe use is so important, and we will be better able to do that education outside of a criminal process.

Hon. Frances Lankin: Senator Bernard, I understand the issue you make around the use or misuse of discretion and its particular impact on racial minorities and other minority groups. I'm with you on that.

I was very supportive when you brought the amendment forward at committee, but I didn't ask enough questions.

When I listen to Senator Plett, one thing I wonder is, did we provide a definition of "social sharing"? I immediately thought of the scenario you talk about where someone is passing a joint around a room where kids are partying or hanging out.

Senator Plett says that it could also be a large amount being given, not just one joint being passed; it could be actual provision: "I can go and buy it legally, so now I'm going to give you my 5 ounces." There's not supposed to be a legal way for minors to get this.

What Senator Plett is suggesting with a ticketing scheme takes it out of the indictable aspect and criminalization.

Can you tell me why you would still oppose that? And if you do, should we be providing a definition of "social sharing," or did we?

Senator Bernard: Thank you for the question, honourable senator. You raise an important point about the lack of definition. So you're right, no, we did not provide a definition. That would bring greater clarity to that amendment that was passed.

• (1940)

Sorry, I forget the second part of your question.

Senator Lankin: If there is no definition, it actually opens the situation to larger quantities being shared as a quantity as opposed to the passing of one joint, and I think that that is the caution that Senator Plett is trying to raise for us. I think he might be right.

Senator Bernard: While I would agree that having a definition would be helpful, I don't agree with the ticketing, because I think the ticketing would again disproportionately affect groups who are already disadvantaged.

The Hon. the Speaker *pro tempore*: There are 19 seconds left, Senator Plett.

Senator Plett: Thank you. Senator Bernard, I think I have absolutely done everything that you just said in your speech to me that you wanted. I think you made my case as well as I did.

I have the definition that Senator Lankin is talking about. It is 5 grams of marijuana.

The Hon. the Speaker *pro tempore*: Thank you, Senator Plett. Senator Martin, on debate.

Hon. Yonah Martin (Deputy Leader of the Opposition): I rise in support of the amendment moved by Senator Plett. The two-part amendment adopted at committee introducing social sharing provisions to Bill C-45, left as is, will have far-reaching consequences both anticipated and unanticipated for Canadians across this country, especially our youth.

If I may perhaps link back to some of the questions that were being asked as well as what Senator Plett said, one of the areas that I'm quite concerned about is what will happen in the schools.

In high schools there are students in Grade 8 who are 13, some as young as 12, and Grade 12 students who may be repeating sometimes, so you have 18- and 19-year-olds who are in that same school. My husband is currently at an alternate school where there is a smoke pit, as there are in many schools. We can look at the Tobacco Act and the regulations that govern smoking, but it's not quite the same. You have to look at it similarly to alcohol, but alcohol is forbidden on campus in all high schools, and currently marijuana is as well, but smoking is allowed at the smoke pit.

You can imagine what could happen in the schools if we allow this social sharing provision to remain as is. At this time in B.C. schools, if someone is high, they get sent home.

So if this amendment that was adopted at committee is left as is, I have great concerns about what could happen in the schools. And as you know, even with the regulated and carefully monitored tobacco market, a legal substance, we do have a proliferation of contraband tobacco. There is infrastructure in Canada, and it is an international infrastructure, as I'm aware based on talking to some experts, and that already exists. I don't understand how we cannot worry about what could happen with marijuana even after it's legalized and that these criminal elements will be recruiting, and some students in the schools could very well be part of that recruitment.

I do share many of the concerns that are expressed for those reasons.

Rather than elaborating on the concerns about what's happening with the illegal contraband tobacco market, I think that it is our duty as senators, when looking at legislation and if we enact this law, to think about its first aim, which is to protect our youth from having greater access. I believe that the social sharing provisions will actually increase the access and put our youth at greater risk.

We cannot go into homes and police what happens there, as others have stated. However, at least the laws can reflect the kind of objective we wish to achieve, and the law could at least provide some limits, as Senator Plett is proposing. If anything, if some parents are potentially deterred by these limits that we include in the bill, then we will at least have aided them through the law as well.

I believe that there are risks at school, and what could happen, because these legal-aged students will be with underage students every day, it will make things very difficult for teachers and administrators. I believe that in time the public will be able to prepare for all the extended changes that they will see in their schools and in society, but at this time, the schools are just barely talking about it. They know that it's coming, but they need more time to prepare.

For us, I think it's very important to be on the safer side and achieve some sort of balance.

I understand the objectives and that Senator Bernard was looking to protect some of the youth who have their futures ahead of them. We heard what she said today, but knowing that we're opening up the schools to even greater risk, I truly believe that the amendment that Senator Plett is proposing will give us some assurances and will set limits that will be important in light of these issues that we know will happen on the school grounds.

I know that at committee there were many experts representing professional medical associations, health bodies and other organizations. Many recommendations were made, and they were compelling. We talked about changing the age from 18 to 19 or even as high as 25. I don't believe that anyone recommended provisions for social sharing. I think there are risks that we are aware of.

In light of all this and in light of the fact that we do wish to protect youth, especially at the schools, and provide some protection in the home through what we can ultimately do with the law, I urge all senators to support Senator Plett's amendment, as I will.

Hon. Howard Wetston: Will Senator Martin take a question?

Senator Martin: Yes.

Senator Wetston: I probably should have asked Senator Plett this question. How did you come up with the two years? Is it arbitrary? Is there any basis for the two years?

Senator Martin: I believe that was in the amendment adopted at committee that Senator Bernard proposed.

Hon. Leo Housakos: Honourable senators, I struggle with this aspect of the legislation because I'm vehemently against any measure that is in any way permissive or appears to be permissive of providing marijuana to anyone under the age of 25, never mind anyone under the age of 18. However, I do see Senator Bernard's point that an 18-year-old passing a joint to a 16-year-old friend shouldn't face 14 years in prison for doing so, and I don't think any reasonable person would disagree with that.

Notwithstanding my objection to the use of marijuana by young people, I would agree with a need for an amendment to lessen the severity of punishment for such an offence.

However, I do not agree with removing penalties altogether. Doing so would fly entirely in the face of what is supposed to be the main purpose of this legislation. After all, the overarching objective of the government in passing this bill is to make sure we actually reduce, in the long term, marijuana use among young people, to keep marijuana out of the hands of youth and to decrease the use among youth.

Again, I must repeat, notwithstanding my objection to the overall use of marijuana by people under the age of 25, and we all know the reasoning behind that. We listened to the Canadian Medical Association, the nurses' association. I haven't heard any compelling argument to make me believe that for people who regularly use marijuana from the ages of zero to 24 it doesn't have an enormously adverse effect on their cerebral development.

I strongly support the compromise being proposed by Senator Plett's amendment. I find it to be reasonable. It builds from what Senator Bernard is trying to achieve, and I think Senator Plett is making sure we're protecting teenagers in this country.

It sufficiently addresses Senator Bernard's concerns over the severity of the penalty, and just like the second part of her amendment, it maintains consistency with how we punish similar offences related to social sharing of alcohol, for example. I believe this balanced approach also addresses the issue we know is a problem with other aspects of this legislation, which is the increased backlog it will create in the courts. So in the interest of consistency, balance and alleviating unnecessary courtroom backlogs, I think this is a very reasonable amendment.

• (1950)

Social sharing is going to have the biggest impact when we legalize marijuana. We all remember when we were a little bit younger than we are now and we recognize what the driving force was for us taking our first drink or trying our first cigarette. It's being 16 or 17 in a high school, on a football field or in a locker room and wanting to be like that 18-year-old. It's only normal. Every young teenager wants to be like the 18- or 19-year-old. They want to grow up in a hurry, so if the 18-year-old is having a cigarette, you figure, "That's pretty cool. Let's try a cigarette, my first drink or my first beer."

How many 15- and 16-year-olds are dealing with alcoholism in secondary school in this country, and how do they get access to that alcohol? They get it because some 18- or 19-year-old buys it for them. It's very rare that it's a friend who buys him a beer. It's a peer. A peer is not a friend; they are someone you come across on a football team because, in Canada, you have various leagues where 18-year-olds are playing with 17-year-olds. On many junior hockey teams you have 15- and 16-year-olds playing with 19- or 20-year-olds.

So there is that inevitable overlap, and if we don't take measures and steps to safeguard those young teenagers who just aren't ready to make a decision of a legal adult, then I think we're negligent in our overall responsibility.

I just wanted to share those thoughts, and it's for those reasons I am supporting Senator Plett's amendment.

Hon. Denise Batters: I have a question, if Senator Housakos would accept it.

Senator Housakos: I would, thank you.

Senator Batters: As Senator Bernard was just saying, without a definition of friend in the social sharing amendment that Senator Bernard proposed and with no limit on the amount of marijuana that could be socially shared, wouldn't that potentially be allowing a loophole to set up a drug distribution chain?

Senator Housakos: Look, invariably I think there is a lack of definitions in many aspects of this legislation right now, which I clearly don't think has been thought out very carefully. Here is an example of it and that's why I think this amendment is so critical. It certainly would be a loophole because — let's face it — predators look after markets; they don't look after age groups.

When a predator is out there peddling marijuana legally or illegally, if you want to legalize it, it doesn't change what the illegal market does. They try to make the most amount of money. So if making the most amount of money means making sure an 18-year-old in a dressing room is peddling product for you, yes, he's doing it legally to other 18- and 19-year-olds.

But if you have a little loophole where you can socially share with the 17-year-old guys in the locker room, what they're sharing is, "Here is a joint for 10 bucks." So, indeed, it can create the kind of dynamic that you're referring to.

Hon. Ratna Omidvar: Would the senator take a question?

Senator Housakos: Absolutely.

Senator Omidvar: I understand the sentiment behind Senator Plett's amendment. He has provided a table of his amendment, which I really appreciate. Thank you very much.

My question is about the summary convictions in both circumstances when someone provides a young person with 5 grams or less or over 5 grams.

It depends on the judge, but a summary conviction can result in a prison sentence of six months or less. A summary conviction does carry a criminal record with it.

Given everything we heard at committee around the knock-on effects of criminalization on young people and what Senator Poirier said about how one mistake, in this case, could damage a young person's life forever because they would be denied employment, education, travel and lots of other issues, do you have a response to this particular concern of mine?

Senator Housakos: Look, I'm going to be honest in that I did not really look at it from that point of view, but at the end of the day when you're trying to protect young teenagers from what is invariably a potentially harmful effect on them, there has to be some kind of sanction involved for the adults who have to understand that it is not right for them to be distributing marijuana to 13- and 14- and 15- and 16- and 17-year-olds.

Again, from my understanding of the way I read the summary, I think it's a reasonable sanction and one that people have to take under consideration.

I think the objective of this bill is to protect young teenagers. We've had the ongoing debate on what should be the limit of acceptability for an adult to make their own decision. The government has determined that, and it seems to be 18. I certainly don't agree with that, but an 18-, 19- or 20-year-old who takes a decision legally to smoke marijuana should also appreciate and understand that he should not be selling marijuana to a 16-year-old or socially sharing marijuana with a 15-year-old and that there are repercussions that come with it. As parliamentarians, there has to be some line you have to draw.

Senator Omidvar: Thank you for that answer. So you're not concerned about damning — and this is really the sentiment we heard at committee — a young person forever to a life of exclusion because of a mistake that they made? There are other provisions that Senator Plett has, like tickets, which I could perhaps support because it doesn't necessarily result in a criminal record.

I wonder if you could compromise the principle of the bill, which is the protection of youth and decriminalization, with this amendment.

Senator Housakos: As it stands, this bill gives an enormous amount of privilege to people 18 years old and above. If they can exercise that enormous degree of privilege in making the freedom of the choice they make, they should appreciate the small risk involved when they don't respect the law and we, as parliamentarians, draw a limit that that adult should not be peddling marijuana in any way, shape or form to a minor.

I'm ready to draw that line with the adult who takes that risk and has to live with the consequences. There has to be some consequence for somebody 18 and up, just like there would be a consequence when he gives that doobie and that joint to a 15-year-old or a 17-year-old.

Senator Plett: Do you have time for one more question?

Senator Housakos: I do.

Senator Plett: Senator, I would like to weigh in on what Senator Omidvar said and on what Senator Bernard said.

Would you not agree, Senator Housakos, that when somebody gives a 16-year-old more than 5 grams of marijuana — more than 10 joints — that goes beyond social sharing and gets awfully close to trafficking and then, maybe, a summary conviction is suitable?

Senator Bernard talked about one joint. My amendment is quite clear: 5 grams. Her amendment was entirely unclear and left no limits, had no cap and we would simply have no repercussion for someone giving 10 pounds of marijuana to somebody if they were two years younger.

The Hon. the Speaker *pro tempore*: Your time is up.

Senator Eggleton, on debate.

Hon. Art Eggleton: Well, there are a lot of very interesting points being made here. In terms of what social sharing means, I believe it means kids passing around a joint. I think that happens all the time, and it can happen with people who are close in age but where some of them might be over the age of 18 passing on to someone who is 16 — or giving them a joint, not selling them one. You get into sales or you get into something more than 6 grams, which this amendment from Senator Plett suggests would still be an indictable offence. Six grams, more than 5 grams, would still be an indictable offence.

Senator Plett: Or summary conviction.

Senator Eggleton: If you're getting into something of that quantity, I think you're getting into trafficking, and I think you just said that, Senator Plett. I think you're going to get into trafficking. That's not social sharing. Social sharing is what I just described and it's what the task force recommended.

Senator Bernard picked this up from the task force. I think social sharing with people close in age is reasonable.

Now, even Senator Plett has left alone the other part of this, where, if you're at home and the parent is there, it's no problem. But if the parent is, in effect, out of the room or out of the building, then it's a problem if an 18-year-old passes to a 16-year-old.

• (2000)

Certainly the government will have to put in a definition of social sharing. But with this amendment coming on the heels of the task force amendment — and that gives a clear understanding of what this is about — I think it's reasonable to do this. As I said earlier, I don't think anybody should be criminalized for possession for personal use. Trafficking is a different matter. This would still expose young people.

Young people are not just the people under 18 but people who are 18, 19 or 20. They are still young people and people who can be affected very profoundly in their lives by a conviction. I think the amendment that was adopted by the committee on the proposal of Senator Bernard is a reasonable one to proceed with.

The Hon. the Speaker *pro tempore*: On debate, I have Senator Dean before you.

Hon. Tony Dean: Thank you. I will —

Senator Martin: I have a question for Senator Eggleton. Sorry, Senator Dean.

The Hon. the Speaker *pro tempore*: Senator Eggleton, would you accept a question?

Senator Eggleton: I'm looking for my iPhone. Yes.

Senator Martin: Okay. I hope you find it.

Senator Neufeld: And it's charged.

Senator Martin: I didn't include this in my speech earlier, but I did receive a link to an article today in Global News. I don't know if you've seen it. It talks about the concern with the social sharing provision in the federal law because many provinces have adopted their new laws around legalization of marijuana, and social sharing is illegal in those provincial laws.

I was wondering if you're aware of any consultations about social sharing with the provinces because our law, in effect, will go against the provincial laws that have been passed.

Senator Eggleton: Federal criminal law, I'm afraid, takes precedence. There are some parts of it that are delegated to the provinces, and if the provinces are operating within that framework that's delegated to them, they're free to do that, just like when we talked about the four plants. You wanted to abolish having any plants at all, but we ultimately said, "Let's leave that to the provinces." That's one which is delegated.

Offhand, I don't know whether this one is delegated. I don't know what consultations there have been on it. But unless it has been delegated to them, it is still a federal responsibility.

The Hon. the Speaker *pro tempore*: Senator Martin, do you have a question?

Senator Martin: I think the problem is that this is an amendment that was adopted. It was not in the original federal law. In the meantime, provinces have enacted their laws, and any sharing of marijuana to minors is illegal in provincial law.

Senator Eggleton: I'm not sure of that.

Senator Martin: Well, it's in today's article. I'm wondering if you read it. It's by Patrick Cain.

Senator Eggleton: I have not read the article, but it doesn't mean it's correct. I'm not saying it's fake news, but I'm not sure of its accuracy. Again, if it's part of the federal law, then that prevails.

Senator Dean: I'll be brief, Your Honour. I want to build on the points made by Senator Omidvar and Senator Eggleton.

I support Senator Bernard's original amendment. It is consistent with the philosophy of Bill C-45, which is to reduce the criminalization of young people. This is something that we heard about in committees. It is a concern about remnants — perhaps too many remnants — of criminalization left in the bill and concerns about the criminalization of young people. This is clearly what was driving Senator Bernard's original amendment.

It is clearly not about trafficking, which is dealt with in other parts of the bill.

I'd like to question or contest the notion that this will start a problem. This is responsive to an issue. It's responsive to the fact that kids share cannabis fairly widely, not just within a two-year band of 18 or 19, but, as we know, down to as low as the ages of 12 and 13. This is a problem that we have now. This is a problem that we're going to try and tackle with education and with more information and harm reduction.

When one third of 15- to 19-year-olds are reporting past use of cannabis, they're getting it somewhere. And they're probably getting it, in lots of cases, from their peers. So I support the original amendment.

I don't think that was an amendment coming from Senator Bernard and promoted by witnesses at our committees and based solely on the concept of social sharing. I think it was built predominantly on the foundations of the notions of age, which is defined and we find elsewhere in the criminal law in Canada. It is the notion that where there are margins of age, this should be recognized. It's close. It's likely going to happen commonly, and we're not going to immediately jump to charging people.

This is built on closeness of age, yet it's about social sharing. It's obviously not about trafficking, and it is consistent, without a doubt, with the overall emphasis, one of the key planks of the legislation, which is to reduce and tackle the criminalization of young people, particularly marginalized, Indigenous and other racialized Canadians who we know are multiply represented in the justice system over and above their peers.

So I'm going to continue to support this. I oppose the amendment.

The Hon. the Speaker *pro tempore*: Senator Lankin, do you have a question?

Hon. Frances Lankin: I do, yes.

The Hon. the Speaker *pro tempore*: Senator Dean, will you accept some questions?

Senator Dean: Yes.

Senator Lankin: Senator Dean, thank you very much. I appreciate your intervention in this debate. I think it's entirely possible for two positions to be correct, and I'm feeling like that's the situation here.

I agree with Senator Bernard's amendment and her intent completely when you're talking about social sharing in the context of sharing a joint around a room. I agree with Senator Plett completely if you're talking about someone who's 18 or 19 and handing over a 10-gram bag to someone who is underage, and there have to be some sanctions.

To me, the simplest way of solving this is to have a definition of social sharing in the legislation.

Do you not think it's reasonable to preclude the events that Senator Plett points to by having that kind of a definition? I don't think his concerns are unwarranted.

Senator Dean: Given that you and I are having this debate, Senator Lankin, it clearly is possible for two people to be right. Of course I will acknowledge, as I will with most of the toughest aspects of our discussion about cannabis reform, that there are at least two — and in many cases more than two — views on how to tackle a particular challenge. That is certainly true of age of legal access, which is why we have a discussion between age 25 and ages 18 and 19.

Our job here is to figure out the most appropriate way of balancing those things. There will be different points of view. They're all legitimate points of view. On balance, it was and it remains my view that, given what we know about young people and the intent of the act, I land with Senator Bernard on this, while recognizing there are other legitimate points of view. I am not discounting them at all. This is a tough issue on which there are a number of points of view. Our job, in all of the critical and toughest areas of Bill C-45, is to figure out the way we will bridge those gaps and resolve those differences.

• (2010)

One potential way of doing so is a definition of "social sharing." I don't know that we've got time for that, and this is an important issue. As things stand, on balance, I still lean toward supporting Senator Bernard's original amendment.

It's a great question. Thank you.

The Hon. the Speaker *pro tempore*: Senator Housakos, do you have a question?

Senator Housakos: I have a very brief question. Senator Dean, I've been hearing you throughout this whole debate, and I'm more concerned with your last intervention than ever before. I keep hearing how the government keeps talking about their objective being to reduce the consumption of cannabis among young people. Yet I listen to you articulate in the discourse on this particular issue, and you don't seem to be that concerned that this bill is normalizing the use of cannabis. Our main preoccupation is to make sure adults 18 and above don't get criminalized in any way, shape or form, including when they give X amount — 3, 4 or 5 grams — to a 14- or 15-year-old. How do you square those corners?

At the end of the day, there's a reason I suspect the task force and this legislation have the admissible age of use of 18 and above. Why don't we just go down to 16, if we listen to your dialogue, and resolve this problem, or 14 or 13, for that matter?

I really don't understand how the government seems to be so flaggy about the idea that there's going to be more accessibility for teenagers to get access to marijuana through social sharing and other means, and yet we've taken no steps. What steps has the government taken to prevent young people from accessing cannabis through social sharing of any form?

Senator Dean: I'll be very brief. I'm going to answer just the early part of the question.

In 2002, your colleague Senator Nolin concluded, after an extensive study of cannabis in Canada, that prohibiting cannabis was more harmful to young people than legalizing and strictly regulating it. For the past 16 years, we've been thinking about that, doing more research, having discussions and expert task groups. Do you know what's happened in the last 16 years? This isn't going to comfort you much. Those have been 16 more years of normalization while legislators have been looking the other way.

So the news I have for you, Senator Housakos, is that I think cannabis in Canada is much more normalized already than you'd like to think it is or that you'd like to hope it is. That's the answer to your question.

Senator Housakos: That doesn't answer my question.

Senator Dean: That's the answer you're going to get.

Hon. Carolyn Stewart Olsen: I just wanted to add to this debate. I support the amendment. I don't support the original amendment we passed in committee, mainly because I think it disrespects our young people. I don't believe that an 18-year-old is dumb enough to think it's right to give and share a drug with younger people. I don't believe we should be saying it's okay if you do by saying there are no consequences.

We have to give them the respect they deserve. As Senator Dean was saying about strictly regulating, in my opinion it's not strictly regulating if you say it is okay to do that and there are no consequences.

I think Senator Plett's amendment relaxes a lot of the criminalization. I certainly think it's not going to criminalize people.

We have to teach our young people, and we are responsible for that. We have to teach them. We bear the responsibility to say, "Okay, you're the up-and-coming generation. You are responsible for your younger peers coming along as well as we are." I don't want to disrespect them by saying, "You go ahead and share this any way you want to." We should give them more credit than that.

By saying there is an age that has been decided where it's okay, and someone just has to wait for that. I'm not going to say it's fine to socially share because, first, I don't know what that means, and second, it's not fine. No kid I know thinks it is fine; they all know it's not. I can't look a parent in the face and say, "Yes, I agreed that was okay." I know a lot of parents who are going to look at us and say, "It wasn't okay that you did this."

Some Hon. Senators: Hear, hear.

The Hon. the Speaker *pro tempore*: Are senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker *pro tempore*: In amendment, it was moved by the Honourable Senator Plett, seconded by the Honourable Senator Martin, that Bill C-45 be not now read —

Hon. Senators: Dispense.

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Some Hon. Senators: Yes.

Some Hon. Senators: No.

The Hon. the Speaker *pro tempore*: All those in favour of the motion will please say "yea."

Some Hon. Senators: Yea.

The Hon. the Speaker *pro tempore*: All those opposed to the motion will please say "nay."

Some Hon. Senators: Nay.

The Hon. the Speaker *pro tempore*: It's so close. We'd better have a vote.

And two honourable senators having risen:

An Hon. Senator: Who had it? The "yeas" or "nays"?

The Hon. the Speaker *pro tempore*: It was even. If it's even, the "nays" have it. So we're going to have a vote in 15 minutes, at 8:32 p.m.

Call in the senators.

• (2030)

Motion in amendment of the Honourable Senator Plett agreed to on the following division:

YEAS
THE HONOURABLE SENATORS

Andreychuk	Martin
Ataullahjan	McInnis
Batters	McIntyre
Beyak	Mockler
Boisvenu	Neufeld
Boniface	Ngo
Campbell	Oh
Carignan	Patterson
Cormier	Plett
Dagenais	Poirier
Deacon	Richards
Doyle	Seidman
Gagné	Smith
Galvez	Stewart Olsen
Greene	Tannas
Griffin	Tkachuk
Housakos	Wallin
Lankin	Wells
MacDonald	Wetston
Maltais	White
Marshall	Woo—42

NAYS
THE HONOURABLE SENATORS

Bellemare	Hartling
Bernard	Jaffer
Black (*Alberta*)	Joyal
Black (*Ontario*)	Lovelace Nicholas
Bovey	McCallum
Boyer	McPhedran
Christmas	Mercer
Cordy	Mitchell
Coyle	Munson
Dawson	Omidvar
Day	Pate
Dean	Petitclerc
Downe	Pratte
Dyck	Ringuette
Eggleton	Sinclair—31
Harder	

ABSTENTIONS
THE HONOURABLE SENATORS

Dupuis	Moncion
Gold	Ravalia
Marwah	Saint-Germain—7
Mégie	

(On motion of Senator Bellemare, debate adjourned, on division.)

CRIMINAL CODE

BILL TO AMEND—THIRD READING—
DEBATE ADJOURNED

Hon. Gwen Boniface moved third reading of Bill C-46, An Act to amend the Criminal Code (offences relating to conveyances) and to make consequential amendments to other Acts, as amended.

• (2040)

Hon. Marc Gold: Honourable senators, as you know, the Standing Senate Committee on Legal and Constitutional Affairs voted to remove all references to mandatory alcohol screening from Bill C-46, and in so doing the committee rejected the central policy change the bill had introduced to combat the scourge of drunk driving in Canada. I believe the committee was wrong to amend the bill as they did.

MOTION IN AMENDMENT

Hon. Marc Gold: Therefore, honourable senators, in amendment, I move:

That Bill C-46, as amended, be not now read a third time, but that it be further amended in clause 15,

(*a*) on page 23, by replacing line 35 (as replaced by decision of the Senate on June 4, 2018) with the following:

"**320.27 (1)** If a peace officer has reasonable grounds to";

(*b*) on page 24, by adding the following after line 17:

"**(2)** If a peace officer has in his or her possession an approved screening device, the peace officer may, in the course of the lawful exercise of powers under an Act of Parliament or an Act of a provincial legislature or arising at common law, by demand, require the person who is operating a motor vehicle to immediately provide the samples of breath that, in the peace officer's opinion, are necessary to enable a proper analysis to be made by means of that device and to accompany the peace officer for that purpose."; and

(*c*) on page 34, by replacing line 18 (as replaced by decision of the Senate on June 4, 2018) with the following:

"conducted under paragraph 320.27(1)(a); and".

The Hon. the Speaker: In amendment it was moved by the Honourable Senator Gold, seconded by the Honourable Senator Pate, that Bill C-46, as amended, be not now read a third time, but that it be further amended in clause 15 — shall I dispense?

Hon. Senators: Dispense.

Senator Gold: Honourable senators, during the committee hearings, witnesses from the bar argued strenuously that the law would infringe the Charter. On the other hand, the committee heard testimony from the minister and government officials and received briefs from prominent law Professors Peter Hogg, Robert Solomon and Dean Erika Chamberlain, all of whom supported the constitutionality of mandatory alcohol screening under the Charter.

On the last day of its hearings, the committee also heard from a leading criminal law scholar, Professor Don Stuart, who also argued against the constitutionality of the bill on the grounds that it violated section 8 and would not be likely be saved under section 1. He went on to state, in a line that I suspect we will hear repeated on more than one occasion during this debate, that ". . . the Supreme Court of Canada has never saved a section 8 violation under section 1 . . . ."

[*Translation*]

I have tremendous respect for Professor Stuart, but I think he's wrong and that Professors Hogg, Chamberlain and Solomon are right in saying that mandatory alcohol screening would be considered constitutional. However, honourable senators, that's not the point I'm here to make. It's rare for constitutional law to be so black and white. The truth is that there are sound arguments on both sides, and significant constitutional rights and values are at stake. This is a thorny question, and well-informed, rational, well-meaning people can disagree. It is precisely for this reason that I think it was inappropriate for the committee to remove the mandatory alcohol screening.

[*English*]

It would take me too much time and take us too far afield to fully develop the constitutional analysis in support of my view that the bill would withstand constitutional challenge. So, with regrets, you're going to have to do without extensive quotes from the witnesses and extensive quotes from the Supreme Court of Canada jurisprudence. I apologize.

Let me simply make the following points, and I'll be happy to take any questions you may have.

First, there's a strong case that mandatory alcohol screening would not in fact infringe section 8 of the Charter. The law would be prescribed by law, the law is reasonable, and the demand for the breath sample would be obtained in a reasonable manner. Professor Hogg makes this case very succinctly and persuasively, but, in any event, mandatory alcohol screening would likely be upheld as a reasonable limit under section 1, building upon the jurisprudence in the courts upholding random stops as reasonable limits to the right not to be arbitrarily detained and the right to counsel.

As I stated in my speech on second reading, Bill C-46 would clearly satisfy the first two parts of the four-part test that the Supreme Court has established under section 1. First, the court has ruled that reducing the harm caused by impaired driving is a sufficiently important objective to justify limiting Charter rights; and, second, whatever else you may think about mandatory alcohol screening, it clearly bears a rational connection to the bill's objective of deterring drinking and driving.

Now, the third and fourth parts of the test speak to proportionality:Does the law infringe the right no more than necessary to achieve its objective? And do the benefits of the law outweigh the infringement of the right?

[*Translation*]

The committee heard that about half of impaired drivers escape detection by police under the current system.

[*English*]

About 50 per cent escaped detection.

[*Translation*]

Other witnesses said that countries that introduced mandatory screening saw a huge decline in the number of impaired driving incidents and accidents. However, the bill's critics question how much value should be placed on those studies and claim the predicted effect is still only hypothetical. Other experts, like Professor Stuart, think this opinion is a red herring, as many of the countries cited have no constitutional charter of rights and freedoms. As I interpret the testimony, the critics are wrong.

[*English*]

Canada has one of the worst impaired driving records amongst comparable developed countries and lags behind the over 100 countries who have already introduced mandatory alcohol screening programs of some kind.

Although the experience varies from country to country, the evidence seems compelling that mandatory alcohol screening is more effective in reducing and deterring drunk driving than the alternatives. Now, the critics of mandatory alcohol screening disagree, and they point to the differences between our regime and others. However, several jurisdictions had regimes similar to ours before they introduced mandatory alcohol screening, and in my reading of the relevant literature, I'm satisfied that the studies demonstrating the effectiveness of mandatory screening properly controlled for the relevant factors, including the state of the law before mandatory alcohol screening was introduced, the impact of public education campaigns and changes to the levels of police and enforcement.

In my opinion, therefore, the government had a strong evidentiary basis upon which to conclude that the introduction of mandatory alcohol screening would materially reduce the number of drunk drivers who escaped detection and thereby reduce the harm caused by drunk driving.

Finally, mandatory alcohol screening restricts Charter rights no more than is necessary to achieve the important objectives of the law.

Now, colleagues, we must keep in mind that the police already have the power to randomly stop drivers under our current law, both in common law and in statute, and they can do so to verify licensing, ownership, insurance and, importantly, sobriety. The power has been repeatedly held to be constitutional over many decades. Bill C-46, rightly or wrongly, doesn't change that.

The only change that it introduces is to remove the requirement that the police have a reasonable suspicion that the driver consumed alcohol before the police can demand a breath sample. Nothing else changes with respect to the subsequent steps that drivers must do if they fail that roadside test. So if you believe that mandatory alcohol screening would reduce the number of drivers who escape detection — and remember, the evidence suggests that it is as many as 50 per cent — then the answer is clear.

Moreover, our courts have recognized that we have different expectations of privacy depending on our circumstances. Driving is already a heavily regulated activity, and our reasonable expectations of privacy, which are at the heart of Charter protection, are different when we get behind the wheel than they are when we return to the safe confines of our homes. Indeed, as you know, we are subject to be searched, frisked, even X-rayed and our skin swabbed when we go to an airport to board a plane.

Now, of course, the taking of a breath sample engages us in a more personal and intimate way than simply a demand to produce proof of insurance. Our breath is the very essence of our life. Nevertheless, a demand for a breath sample is far less intrusive than a body search or a demand for a blood sample. It reveals no personal information about the individual except their blood alcohol level. It's transitory, and it takes very little time to administer. Mandatory alcohol screening ensures a brief encounter. The officer is required to have an approved device in possession, and the driver must be in care or control before the demand can be made. Because it is mandatory, it causes no stigma or embarrassment to drivers, and the results are not retained in evidence.

• (2050)

On balance, I believe that there is ample evidence to support the view that the introduction of mandatory alcohol screening in Canada would be more effective in reducing the incidence of drunk driving than the maintenance of our current system and that it would infringe our Charter rights no more than is necessary to achieve that objective. So I conclude that the introduction of mandatory alcohol screening is constitutionally valid.

However, I'm very mindful that there are strong arguments to the contrary. We heard them at committee, and you'll hear them again in the chamber. And if my amendment is successful and mandatory alcohol screening is returned to the bill, it will be challenged in the courts — of course. We don't know how the lower courts will rule before the cases find their way to the Supreme Court. There is no way to avoid this, short of accepting the status quo and never legislating in this area.

And when it gets to the Supreme Court, it is virtually impossible to predict how the court will rule. Only either the most inexperienced or the most arrogant student of the court would claim otherwise.

The fact is that the Supreme Court has changed its position on critically important Charter issues over the years. The law in some very important areas remains unsettled to this day. It doesn't consider itself bound by previous decisions unless it decides it wants to, and more importantly for our purposes, the court's approach to how it applies section 1 has varied dramatically over the years, depending on the issues before the court and the change in the composition of the court.

So what do we do? What is our constitutional obligation as senators when we're faced with competing and conflicting arguments from reputable lawyers and academics who disagree on the constitutionality of this bill?

I come to the heart of why I'm speaking on this matter.

The Constitution of Canada binds us as parliamentarians, just as it binds government and the courts, but we all play different roles in interpreting and applying the Constitution. It's critical that we as senators recognize and respect the distinctions that obtain between the Senate, the House of Commons, the government and the judiciary. We can put them all together, the difference between Parliament and the government, Parliament and the judiciary, and so on.

Now, as senators we have a responsibility to ensure that proposed legislation respects the Constitution and its values. In this respect, we have a duty to interpret the Constitution as best we as we can. But we're not a court of law, much less the Supreme Court of Canada.

Yes, there may be circumstances and some situations — we can all imagine them — where the infringements of the Charter are so blatant and the arguments for upholding the laws so flimsy and spurious that it would be our constitutional duty to refuse to pass such a law. But that is clearly not the case here.

We have arguments from reputable academics, including the one who is cited more often in the Supreme Court of Canada than any other author in history. We have the leading experts in impaired driving law, and, yes, we have reputable defence lawyers and civil liberties lawyers from the bar.

So I come to this, senators: Where the government's policies are reasonable, where they're based upon credible scientific evidence, and where its constitutional position is supported by impartial and distinguished academic analysis, we ought to accept the policy decisions that were approved by the elected House of Commons. Yes, our responsibility is to ensure that the laws respect our Constitution and its values, but unless a bill so obviously and unambiguously violates the Constitution, and that is clearly not the case here, the Senate should not substitute itself for the courts. To do otherwise would be to go beyond our legitimate role as an independent and complementary legislative body and assume a constitutional role for the Senate that properly belongs to the judiciary.

It is for these reasons, honourable senators, that I hope you will support this amendment to reintroduce mandatory alcohol screening into Bill C-46. The safety of all Canadians is in our hands.

The Hon. the Speaker: Senator Gold, I know there are a couple of senators who wish to ask questions, but your time has expired. Are you asking for five more minutes?

Senator Gold: Yes.

The Hon. the Speaker: Is leave granted, honourable senators?

Hon. Senators: Agreed.

Hon. Mobina S. B. Jaffer: Senator Gold, thank you for the work you have done on this issue and also for your speech tonight.

You know, senator, there is the constitutional argument, there is our argument as legislators working on this issue, but there is an implementation issue that we also have to address.

I come from a community, and 20 per cent of Canadians get mandatorily stopped driving because they are Black. Whether it's constitutional or legislative, on the ground because it's mandatory, MLAs in Toronto, prominent people in Toronto get stopped.

What do you say to those people who will be stopped mandatorily because they are Black?

Senator Gold: Thank you, senator, for the question. I don't have a great answer. I'm going to try to answer your question.

This is a real problem. All of us know it. We know it either from our own experience or in our own communities. I know it in the province of Quebec, especially with regard to Indigenous people in certain communities. In the year and a half I spent on the Parole Board, I had cases all the time of people being profiled.

I deplore, if I might say that, the lack of baseline data. We have very little data. We know it's a fact, and I deplore the lack of baseline data to properly understand it. I wish the RCMP and other police services were more open to gathering it and helping us understand better.

Let me make two main points, first, to distinguish between random versus mandatory testing. Again, and you know this, random stops are a fact of law now, and they can stop you for sobriety. This doesn't change that. The profiling that you described that goes on around the country remains a problem and will continue to remain a problem. So I have no answer in some sense on that point.

The second point I want to make is to distinguish between stationary checkpoints and ad hoc random stops.

If we're dealing with a stationary RIDE program here in Ontario, the stationary stop, there are really two situations. If you set up a stationary block only in neighbourhoods where racialized and other vulnerable minorities live, and you don't set them up anywhere else, you may not be profiling everybody because at a stationary one everyone gets stopped, but you're only picking on one group, and that's a problem. That program itself, in my opinion, would be an unconstitutional application of an otherwise valid law and would and should be challenged.

If you set up the same stationary RIDE program, or whatever it's called in other provinces, at Yonge and Eglinton — I used to live in Toronto — in a diverse neighbourhood and everybody gets stopped, then in fact mandatory alcohol screening reduces racial profiling because there is no discretion and everybody, regardless of religion, colour or looks, gets stopped. That's one situation.

But you can't do this everywhere, all the time in every community. It doesn't work and it's not effective even in cities and much less in rural areas. So if we're dealing with random stops, again, the problem doesn't go away, but it's not aggravated, in my judgment, by this. Remember, it has to be a legal stop. A stop that's motivated by racial profiling is not a legal stop.

Now, it's cold comfort, of course, if you're stopped, you're required to blow and you fail the test, because then you will get into the system. It's part of an answer to say, well, you can challenge it in court as being an improper illegal stop the way you can now challenge it by saying there was really no reasonable suspicion I had alcohol. It was biased. Again, it's cold comfort.

Do I have a good answer? No. Mandatory alcohol screening doesn't create the problem. It may solve it in some cases. Otherwise, it leaves it rather unaddressed.

• (2100)

To conclude, this is an issue that preoccupied us in committee. It preoccupies all of us who care about the fair administration of our laws, not just the contents of the laws.

The Hon. the Speaker: I'm sorry, Senator Gold, but your time has expired.

Senator Gold: May I have five more minutes?

The Hon. the Speaker: Is leave granted, honourable senators?

An Hon. Senator: No.

The Hon. the Speaker: I hear a "no." I'm sorry, your time has expired.

(On motion of Senator Pratte, debate adjourned.)

OIL TANKER MORATORIUM BILL

SECOND READING—DEBATE ADJOURNED

Hon. Mobina S. B. Jaffer moved second reading of Bill C-48, An Act respecting the regulation of vessels that transport crude oil or persistent oil to or from ports or marine installations located along British Columbia's north coast.

She said: Honourable senators, I am proud to rise today as a senator of British Columbia and as sponsor of Bill C-48, the oil tanker moratorium act.

This bill is about our environment. Bill C-48 is an important piece of environmental legislation meant to protect British Columbia's waters. To accomplish this, the bill will enshrine a long-standing crude oil tanker moratorium on the pristine northern coast of my home province, entrench environmental measures that are already long in practice, and implement measures to mitigate the risk and potential scale of oil spills in a very special ecosystem.

On one hand, Bill C-48 is an affirmation of our collective responsibility as stewards of British Columbia's ecologically rich and relatively untouched coastal environment, with its kelp forests, salmon runs, resident orcas and Kermode bears.

On the other hand, Bill C-48 also recognizes the economic imperative of the small communities of coastal British Columbia, many of which have no road access, who depend on the marine shipment of goods, including petroleum products necessary to heat homes and run businesses. For that reason, the provisions of this bill will also ensure that these communities are able to function after the moratorium is put in place.

To illustrate this balance, I would like to generally describe what this bill does. The oil tanker moratorium act will prohibit oil tankers carrying more than 12,500 metric tonnes of crude and persistent oils as cargo from stopping, loading or unloading at ports or marine installations in northern British Columbia.

[*Translation*]

Vessels carrying less than 12,500 metric tonnes of crude or persistent oil will be allowed to travel to northern communities that depend on that cargo for home heating fuel and other petroleum products.

[*English*]

The moratorium area extends from the Canada-U.S. border in the north to the point on British Columbia's mainland that is across from the northern tip of Vancouver Island. The area also includes the area of Haida Gwaii.

This bill is a key element of the Government of Canada's Oceans Protection Plan. The Oceans Protection Plan is a Canadian strategy to demonstrate world leadership in ensuring marine safety, protecting coastlines, and ensuring clean water while providing economic opportunities for Canadians.

Let me repeat that this bill serves to complement the existing voluntary tanker exclusion zone.

[*Translation*]

Because of the voluntary tanker exclusion zone, since 1985 loaded oil tankers servicing the Trans-Alaska pipeline system have had to pass west of the moratorium zone, hundreds of kilometres west of Haida Gwaii and far from the west coast of Vancouver Island.

[*English*]

Bill C-48's proposals are also consistent with the 1972 federal government policy decision to impose a moratorium on crude oil tanker traffic and provide additional protection for B.C.'s northern coastline around Dixon Entrance, Hecate Strait and Queen Charlotte Sound.

In other words, Bill C-48 will entrench and unify these older policies in our laws so that anyone entering our waters can understand them. This is a key element of the Government of Canada's Oceans Protection Plan. Canada's strategy to demonstrate world leadership in ensuring marine safety, protecting coastlines, and ensuring clean water, while providing economic opportunities for Canadians.

In order to ensure compliance with these measures, Bill C-48 also proposes strict penalties for its contravention. Those who violate the moratorium by carrying more than 12,500 metric tonnes of persistent oil or an oil that persists in the environment as cargo within the zone could be fined up to $5 million.

Honourable senators, let me now address some of the specific elements of the bill.

[*Translation*]

These restrictions apply to crude oil and persistent oil products, which are known for being the heaviest and for persisting the longest after a spill, as their name indicates.

[*English*]

Each of the oils listed in the bill were identified using an internationally recognized method used by the International Oil Pollution Compensation Funds. This test categorized each oil type according to their boiling-point range, an internationally recognized measure which will be familiar to people working in the shipping industry.

These oils which will be banned include: partially upgraded bitumen, synthetic crude oil, slack wax, pitch and bunker C fuel.

[*Translation*]

Unlike lighter petroleum products, such as gasoline or jet fuel, which eventually evaporate or are broken down in the ocean by microbes, the heaviest components of some oils can persist in the environment for many years. They float, disperse, sink or wash up on shore. The heaviest components of oils do not evaporate or disintegrate.

[*English*]

With that said, the moratorium bill does not represent a total ban. These fuels will be allowed to be shipped in quantities below 12,500 metric tonnes to resupply the coastal communities in the moratorium area that depends upon these shipments.

To better help these coastal communities, several non-persistent oils or oils that dissipate more quickly through evaporation such as gasoline, light diesel oil and kerosene were also exempted from the ban.

Honourable senators, there is a very important reason that these particular oils have been chosen for the moratorium. We all remember the *Exxon Valdez* oil spill in Alaska in 1989, with its heartbreaking and unforgettable scenes of 1,200 miles of shoreline coated in thick black, persistent oil.

The damage this spill caused was catastrophic. According to the Exxon Valdez Oil Spill Trustee Council, outright deaths from the spill included approximately 250,000 seabirds, 2,800 sea otters, 300 harbour seals, 250 bald eagles, and up to 22 orcas and billions of salmon and herring eggs.

Even after a decade, when the oil seemed to have disappeared, tests on ducks and sea otters showed exposure to hydrocarbons, the chemical compounds contained in crude oil. Even today, the estimated amount of remaining crude oil remains in the thousands of gallons of oil.

This is not surprising when one considers that the industry standard for an oil spill response is only 10 per cent cleanup of the oil. Further, in the case of raw, unrefined bitumen, a diluent is used to help it flow. This diluent evaporates quickly but poses dangers to first responders to the spill who would be exposed to toxic fumes.

Sheila Malcolmson, MP in the other place, spoke eloquently about the slow response times to oil spills. In her region on the southeastern coast of Vancouver Island, in the event of an oil spill, the corporate entity responsible has up to 72 hours to get to the spill with booms.

In her remarks, Ms. Malcolmson also pointed out many facts to support the need for an oil tanker moratorium.

First, shipping oil is a dangerous thing to do, especially through the rough waters off the coast of British Columbia. There are swift currents and tides. Rough waters contribute to the risk of a spill and make cleanup of a spill all the more difficult.

• (2110)

The Royal Society of Canada, Polaris and the National Academies of Sciences, Engineering, and Medicine all agree it is not clear, with a spill in marine waters, how long bitumen will float, especially with rough water and sediment.

Honourable senators, much is at stake. The damage from oil spills has lasting effects. For example, spilled oil could contaminate shellfish beds and, consequently, the animals that eat the shellfish.

The damage doesn't stop there. An oil spill affects First Nations communities whose culture and economy depend on a healthy, pristine ocean.

While preventing oil spills is clearly the best approach to environmental protection, in the event of a spill, quick action is imperative. In the remote north coast of British Columbia, the area to be protected by Bill C-48, there is simply not the capacity to respond quickly in the event of a potential oil spill.

[*Translation*]

That is why Bill C-48 is so important. It would mitigate the risk of a spill in one of Canada's most sensitive ecosystems along its most fragile coastline by keeping oil tankers with loaded holds a certain distance, up to 130 kilometres, away from the shoreline. This zone was determined by calculating the worst drift possible for a disabled oil tanker with a loaded hold and the time it would take for help to arrive.

[*English*]

With Bill C-48, we will always be able to respond to a crisis and save precious heritage.

Honourable senators, I would like to stress exactly what we are protecting when we put this moratorium in place. In committee proceedings in the other place, they heard from a variety of witnesses who spoke at length about the animals and the people of this remarkable ecosystem.

For example, Misty MacDuffee, a biologist and program director with the Raincoast Conservation Foundation's Wild Salmon Program, captured the precious natural value of the area. She told the committee the following:

> . . . British Columbia's north and central coast, along with Haida Gwaii, comprise a unique environment that is increasingly uncommon not just in Canada but in the world. It is . . . where lush forests and granite buttresses greet the sea, where grizzlies dig for clams in sight of the open Pacific, where wolves swim to distant islands in pursuit of seals, where the ethereal calls of killer whales are used to pursue salmon migrating thousands of kilometres to freshwater rivers of a forest, and where the summer sun sets on the blows of feeding humpback whales that are surrounded by thousands of shearwaters, auklets, and gulls, all in pursuit of tiny fish that spawn on a sandy shore or on the giant kelps that buffer the fragile coast shoreline.

This is what Bill C-48 is trying to save when it takes steps to prevent catastrophic oil spills in the area. These spills would severely damage this incredibly productive ecosystem and kill many of the creatures Canadians not only value for their own sake but also see as iconic emblems of Canada's wilderness and, indeed, as part of our national identity.

In addition to safeguarding the food chain, a benefit of the moratorium bill that may not be immediately obvious is the limit on underwater noise from large ships, which can significantly disturb the lives of marine mammals. These waters are a fragile ecosystem for some of the most majestic mammals, including the resident killer whale population, an endangered species that is now reduced to under 75 remaining whales in the area. Killer whales have in fact been endangered since the 1980s with no sign of recovery on the horizon, and acoustic disturbances from vessel noise is a key threat to their recovery.

The whole social network of whales relies on their ability to communicate back and forth; underwater noise interferes with their ability to hunt, navigate and call out to one another. It is for this reason that noise produced by vessels contributes to the slowing of reproduction.

Humans have allowed this majestic species to become endangered. I, however, truly believe humans and whales can share the ocean. It is our job to protect this species for one reason alone: because we cherish them. Simply put, the ocean is full of life and is our sustenance. Thus it is our duty to protect species that humans have endangered.

In British Columbia, wild salmon are an iconic species. The waters off British Columbia's north coast are a significant salmon migration route, with millions of salmon coming from the more than 650 streams and rivers along the coast. The impacts of a single oil spill would be devastating.

We enjoy eating this delicious and nutritious salmon. Salmon have helped make and sustain the temperate rain forest. Salmon support First Nations communities and coastal communities and are an integral part of our West Coast economy. Salmon is British Columbian food.

Salmon also supports a booming fishing industry in British Columbia. A commercial fishery on the north coast catches over $100 million worth of fish annually. Over 2,500 residents along B.C.'s north coast work in the fishery, and the processing industry employs thousands more.

In addition to its economic importance, salmon is integral to the cultures of the native peoples of the Pacific Northwest. For the Indigenous people of this area, salmon is both an essential food and a strong spiritual symbol that is central to their traditions and culture.

The West Coast wilderness tourism industry is now estimated to be worth over $782 million annually, employing some 26,000 people full time and roughly 40,000 people in total.

The beauty of this coastal region and the abundance of salmon have made it a world-renowned destination for ecotourism, creating jobs and opportunities for economic growth. The shoreline is dotted with sports fishing lodges, as enthusiasts flock to experience the natural marine environment and take part in the world-famous fishery.

This legislated crude oil tanker ban will help protect the temperate rain forest and marine conservation parks. These two protected areas have incredible biological diversity and should be protected. They contain many species of concern, like iconic killer whales, grizzly bears, bald eagles and Pacific salmon. Honourable senators, we simply cannot afford to lose them.

Honourable senators, I say to you that we must protect this amazing heritage that we Canadians have for our children, grandchildren and our great-grandchildren. Bill C-48 protects these ecosystems in a way that will not interfere with resupply activities that are so important for communities and industry along this coast. Once in force, the moratorium will prohibit oil tankers from entering or departing ports and marine installations in northern B.C. It will also prohibit transfers to ensure large tankers don't offload products to small fuel barges making multiple trips to ports.

By finding the right balance between environmental protection and community and industry resupply, the government will ensure that shipping companies continue to employ workers from these communities. These jobs are important to individuals working on these ships and the economies of their communities and beyond.

However, while community and industry resupply would be allowed to continue, tanker activity would be strictly limited. Large tankers carrying crude oil or persistent oils in quantities over 12,500 metric tonnes would not be allowed to do business in the moratorium's area.

These strong measures reflect the views of many Indigenous people who helped shape Bill C-48 and who continue to act as the stewards of the lands and waters of B.C.'s northern coast and of the wildlife that relies on these generous and sensitive habitats for survival. In addition to acting as stewards of this natural world, many Indigenous individuals and communities rely on the waterways covered by the proposed moratorium for their livelihood, food security, transportation and cultural lives.

The proposed moratorium demonstrates that a clean environment and a strong economy are mutually compatible. It is an example of sustainable development at its best.

Honourable senators, I would again emphasize the special value of my province's northern coast. This factor should be at the heart of our deliberations on Bill C-48. Those persons most passionate and eloquent on the topic are those who live sustainably as part of this environment, and I would again quote committee proceedings in the other place of Mr. Modestus Nobels, Interim Chair of Friends of Wild Salmon, who said the following:

> For those of us who live on the north coast, it is an extremely important place. We rely heavily on the resources within the region for economic, recreational, and personal use. We have for years feared an oil spill and the repercussions of that in terms of how our lives would fold out. I don't know how to equate for you the value that exists there for us. We have lived on that piece of land for a long time. Many of my neighbours are from First Nations who have been there for centuries. We all rely upon the ocean there. We all rely upon the resources. Those resources are, to us, more important than the other industries that have been brought to us as economies. The economy we wish to see in the region is that of fish, of forestry, and of an ocean that we can rely upon for tourism for generations to come.

• (2120)

Honourable senators, I find no better way to end than with that quote. I know we have a lot of work to do, but I humbly ask you to consider this bill and have it become law before the summer, as it's important for my province of British Columbia. Thank you very much.

Hon. David Tkachuk: Could I ask a question?

The Hon. the Speaker: Senator Jaffer, would you take a question?

Senator Jaffer: Yes.

Senator Tkachuk: Senator Jaffer, how many tankers of the prohibited size of 12,500 tonnes would go by the northern coast every day?

Senator Jaffer: Senator, that's a very good question. I can't give you the answer because I don't know. As you know, there is a Voluntary Tanker Exclusion Zone, so I have no idea of how many tankers there are. They don't go by this coast, in fact, because there's an exclusion zone.

What exists in practice at the moment is being brought in as law. So I don't think any tankers go close to the area that I'm speaking of, but the minister will be at committee and I know he will better be able to answer that question.

Senator Tkachuk: I have another question then. How many tanker accidents have there been off the northern coast that this bill applies to over the last 30 years?

Senator Jaffer: I'm very happy to say there haven't been any, and I hope there won't be because we know what happened with *Exxon Valdez*. People in that region are still paying the price. We are being proactive in preventing tanker accidents to preserve our environment.

Senator Tkachuk: I have one more question. Are there any plans to prohibit tanker traffic on the eastern coast, say in Nova Scotia or any of the Maritime provinces?

Senator Jaffer: Again, senator, the minister will be at committee and we can ask him these questions. In my study of this bill, I understand there are no plans to prohibit tanker traffic on the East Coast.

Hon. Douglas Black: Following on from Senator Tkachuk, Senator Jaffer, could you confirm that if this bill should pass, and if there should be a moratorium, as is proposed in the legislation, that it would apply from the north of Port Hardy — therefore, the Port of Vancouver is not captured by this — and, of course, it would not apply, as Senator Tkachuk has referred, to either Atlantic Canada or the St. Lawrence River? So this would be the only moratorium on oil in Canada. Can you confirm that?

Senator Jaffer: Yes.

Senator D. Black: Thank you. Could you also confirm, Senator Jaffer, that this would be the only moratorium on shipping on the high seas of oil in the world?

Senator Jaffer: That I don't know.

Senator D. Black: Thank you.

(On motion of Senator Martin, debate adjourned.)

[*Translation*]

CANADA LABOUR CODE
PARLIAMENTARY EMPLOYMENT AND STAFF RELATIONS ACT
BUDGET IMPLEMENTATION ACT, 2017, NO. 1

BILL TO AMEND—SECOND READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Hartling, seconded by the Honourable Senator Wetston, for the second reading of Bill C-65, An Act to

amend the Canada Labour Code (harassment and violence), the Parliamentary Employment and Staff Relations Act and the Budget Implementation Act, 2017, No. 1.

Hon. Raymonde Saint-Germain: Honourable senators, as chair of the Human Resources Subcommittee of the Standing Committee on Internal Economy, Budgets and Administration, I will use my time to establish a link between Bill C-65 and the review of the Senate policy on harassment.

Last October, the world saw an unprecedented movement to stop tolerating all forms of harassment. Being connected with the society it is mandated to serve, the Senate is also part of that movement. Last year's context, profoundly changed by the hashtag #MeToo, reinforced our determination to make sure the institution improves its processes to prevent and deal with cases of harassment. To appreciate how far we have come without trying to blind us to the road still lying ahead, I will first discuss the history of addressing harassment in the upper chamber.

[*English*]

In 1993, the Senate adopted its first policy entitled "Harassment in the Workplace." This policy applied to all people in the workplace and provided for a resolution procedure in which the complainant had to inform and have a discussion with the senator concerned. Incidentally, this policy allowed for the possibility of filing a complaint with the Canadian Human Rights Commission.

In 2009, when the current Speaker of the Senate held the position of Chair of the Standing Committee on Internal Economy, a significant update of the 1993 policy led to the passing of the current "Senate Policy on the Prevention and Resolution of Harassment in the Workplace."

On this point, I would like to acknowledge the high quality of the work done at the time, although I do remain convinced that modernizing our policy almost a decade after it was passed is not only possible but necessary.

In 2014, work was started to modernize the harassment policy under the leadership of the late Honourable Pierre Claude Nolin, the forty-third Speaker of the Senate. The late Speaker publicly commented on the Senate's complaint process following an internal investigation that ultimately cleared a former senator.

It is common knowledge that some witnesses who wanted to participate in that investigation were not interviewed, which raised doubts about the integrity of the process. Moreover, the complainants' sincere belief in the employer's genuine desire to get to the bottom of their situation is fundamental to ensuring that victims stop fearing reprisals and trust the internal process.

As comprehensive as the Senate's policy on harassment in the workplace may be, there is no denying that it is distrusted by a number of employees at the moment. In a speech, the Minister of Employment, Workforce Development and Labour stated on January 29:

> Parliament Hill features distinct power imbalances that perpetuate the culture that people with a lot of power and prestige can, and have, used that power to victimize the people who work so hard for us. It's a culture where people who are victims of harassment or sexual violence do not feel safe to bring those complaints forward.

To change this deleterious culture, the government introduced Bill C-65, which was unanimously adopted on May 7 by the House of Commons at third reading. It is the first comprehensive and coherent legislative framework to prevent and address harassment and sexual violence in workplaces under federal jurisdiction. It clarifies the complex normative framework of legislation, policies and court decisions that currently govern these issues.

[*Translation*]

Bill C-65 seeks in part to extend the scope of the Canadian Labour Code provisions on occupational health and safety. At this time, the employees of the Senate and other employees of the parliamentary precinct are not protected by Part II of the Canadian Labour Code, as opposed to civil servants and workers in federally regulated businesses. One of the most significant innovations of this bill is to amend the Code so as to ensure that harassment and violence in the workplace are considered as an occupational health and safety issue from a legal standpoint. However, we still have work to do if we want to reconcile the work done by the other place.

Several amendments were made before Bill C-65 even got to the Senate. For example, a definition of the notion of harassment and violence was added. Also incorporated into the bill was the obligation for the minister to publish an annual report and table a report to Parliament every five years that addresses the provisions on harassment and violence. A targeted employer should also ensure that all of its employees, including management, receive workplace harassment prevention training and are informed of their rights and obligations.

Finally, employees will no longer have to submit their complaint directly to their supervisor before being able to use the recourse available to them. The complainant will have the option to file the complaint with a person designated in the employer's policy, which is in line with the interim measure put in place by the Senate Subcommittee on Human Resources until our internal policy is amended.

• (2130)

I direct your attention to an email sent on May 24 to all staff and senators on behalf of the subcommittee's steering committee to explain the interim measure. The labour relations adviser of the Human Resources Directorate is clearly named as the person responsible for receiving complaints. Despite these improvements, the Senate committee tasked with studying this bill should look at more potential solutions to further improve it. I am thinking in particular of clause 5, which prevents the referral of complaints relating to an occurrence of harassment or violence to a workplace health and safety committee.

Until further notice, complaints of any type that have not been resolved by the employer can be referred to a workplace committee by any party. One of the benefits of workplace

committees is that they are composed of at least two members, with half of them having no managerial functions, chosen by employees.

Allowing inquiries to be transferred to workplace committees could undoubtedly increase the employees' confidence level towards the complaint process. If Bill C-65 was adopted in its current form, employees would be denied that option in the name of privacy. I hope that the Senate can find a way to ensure the confidentiality of the process without jeopardizing the employees' ability to use an alternative solution that could kick-start a stagnating inquiry.

As senators McPhedran and Dupuis said in their speeches on Bill C-65, the Senate committee will need to clarify the right of Parliament employees to file a complaint with the Canadian Human Rights Commission. Since 2005, the restrictive interpretation given by the Supreme Court in *Canada (House of Commons) v. Vaid* prevents employees of Parliament to avail themselves of the Commission's dispute resolution mechanisms in cases of discrimination and harassment. That decision denies employees recourse with an institution that is well suited for processing cases of harassment. I agree with what the Chief Commissioner of the Canadian Human Rights Commission said on February 28, before the House of Commons Human Resources Committee:

> . . . victim should have the choice to seek redress immediately with the CHRC before or at any time during their internal complaint process at their respective organization.
>
> The burden on the victim should be minimized as much as possible. For example, if a parallel human rights complaint is filed, the competent person's report should be shared with the Canadian Human Rights Commission so that the victim does not have to start from scratch and retell their story over and over.

[*English*]

In parallel with the legislative process, your Subcommittee on Human Resources has undertaken a review of the Senate's harassment policy. Extensive consultations have begun and will continue until the summer recess. These will be based on the principles of impartiality and fairness to all parties, the complainant and the respondent alike. Senators, union representatives and independent expert witnesses will appear during our consultations. Above all, I cannot stress enough the importance of the testimony of the representatives of senators' staff. Their adherence to the policy review process and resulting modifications are a *sine qua non* for the success and the relevance of this much-needed reform.

Let me tell you, however, that our zeal to deliver results will in no way compromise how the Senate's new policy complies with Bill C-65. For the sake of efficiency, all the requirements of the bill will be met because our report will not be published before it is passed. We hope that everything will be completed by early fall, and even earlier if possible.

In conclusion, it is essential that the current movement bring about a permanent change in culture on Parliament Hill and a lasting change in attitudes and interpersonal relationships in our environment.

(On motion of Senator Ataullahjan, debate adjourned.)

BUDGET IMPLEMENTATION BILL, 2018, NO. 1

TWENTY-SECOND REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE ON SUBJECT MATTER—DEBATE ADJOURNED

The Senate proceeded to consideration of the twenty-second report of the Standing Senate Committee on Banking, Trade and Commerce (*Subject matter of Bill C-74, An Act to implement certain provisions of the budget tabled in Parliament on February 27, 2018 and other measures*), tabled in the Senate on May 31, 2018.

Hon. Douglas Black: Honourable senators, I will be brief. This report is with regard to the work that was done by the Senate Banking Committee in respect of the budget implementation act, Bill C-74. We were mandated to study certain divisions of the act and we have tabled in this chamber our report.

To highlight, the only issue of concern that the committee had and has shared in our observations is the challenge we needed to consider around meeting the balance of the sharing of information from banks to fintechs and balancing that with the concerns of the Privacy Commissioner that were expressed to us.

What we have done in that regard is noted that this is a potential concern and it's outside of scope of what we needed to do, but we have recommended that the government needs to have a very thorough look in respect of its privacy legislation to ensure that the types of concerns that were raised by various witnesses would be addressed.

We also observed — and I think not a common observation — that we appended a letter that I sent to the Minister of Finance, with the direction and concurrence of the committee, indicating our displeasure at the Department of Finance not having witnesses available for us in respect of the issue that I just described to senators.

We were unable, on a number of occasions, to get representatives from the Department of Finance or from OSFI on this issue we were wrestling with. I'm not going to judge why. It's not my place to do so. But as the chairman of a committee, I've taken a very strong position on behalf of the committee, indicating that we find this unacceptable and I look forward to a response from the Minister of Finance. That observation and my attached letter is also contained.

Your Honour, those are my comments in that regard.

(On motion of Senator Ringuette, debate adjourned.)

CRIMINAL CODE

BILL TO AMEND—THIRD READING—
DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Ringuette, seconded by the Honourable Senator Moncion, for the third reading of Bill S-237, An Act to amend the Criminal Code (criminal interest rate), as amended.

Hon. Frances Lankin: Honourable colleagues, I'm honoured to have the opportunity to speak to Bill S-237, An Act to amend the Criminal Code (criminal interest rate). I want to thank Senator Ringuette for her work on bringing this forward. It is an issue that we have been talking a lot about for a number of years. We have made some progress, but we need to make much more progress.

If I may say at the beginning, you will find me sometimes referring to these alternate lending institutions as fringe lenders out in the community, as payday loans, even though they do other kinds of loans. We are not talking about payday loans. We're talking about small loans, most often, and the usurious rate of interest on that.

• (2140)

When we're talking about what a criminal interest rate is, really we're asking the question: At what point in time does an interest rate become predatory lending, and at what point in time does it become usurious? Those are the concepts that underpin Senator Ringuette's approach to this.

Again, as I speak, I hope you will allow me to come at this the way I learned about this issue myself, which was through dealing with poverty issues in the city of Toronto. I had the opportunity for a number of years in leading the United Way there to really delve in and, with our team, do what I think was really important research work around the nature of poverty and the nature of community where poor families were concentrated and what that meant. I'm going to just go through that quickly in a minute.

I want to say first that there were many of us who engaged in poverty reduction strategies and looked at a number of issues, including the costs of being poor, which include a number of things, such as access to capital and loans, and at what rate they're paid back.

I just want to pay tribute to the work of Senator Omidvar and others with whom I worked, as well as Senators Eggleton and Segal, who did a lot of work on poverty reduction. A lot of people have contributed to this debate.

When we did our first major piece of research about poverty and the existence of poverty — who was poor and where they lived in the city — we produced a report called *Poverty by Postal Code*. It examined 1981, 1991 and 2001 rates of family poverty. We used consistent measuring points all the way through.

We saw a dramatic increase in the number of families living in poverty in Toronto compared to the floor data we had and compared to national statistics and the change in national statistics, which saw the rate of family poverty coming down at the same time over those 20 years that the rate of family poverty in Toronto was increasing.

One the things we wanted to understand was how the supports and opportunities for people to access supports and services mapped against what their needs were. In our research, the key findings were that family poverty rates were rising, as I said; the concentration of family poverty was increasing, so families living in poverty were living in more and more concentrated areas within the city; and those neighbourhoods, the number of higher-poverty neighbourhoods — and there are, again, constant measures in what a high-poverty or a higher-poverty neighbourhood is — increased dramatically. In 1981, we were talking about a total of 30 neighbourhoods, and in 2001, we were talking about over 120 neighbourhoods. That's a dramatic increase over that period of time.

When we started to look at the supports and services, we found that, interestingly enough, if you mapped them, they overlaid with those neighbourhoods. However, that did not happen, by the way, for the supports and services being in the neighbourhoods where those people were and where they needed them; in fact, there were fewer supports and services in those neighbourhoods. We referred to them as under-served neighbourhoods. In fact, we coined the phrase "inner suburbs" because if you look at the map, you will see it was not the GTA surrounding Toronto and it wasn't the downtown area; it was Scarborough, Etobicoke and a few others. It was very clear in its pattern.

That brought us to question why supports and services weren't there. There are a lot of reasons, but one of the easiest I can tell you about is the effect of the "sharp elbows" of the middle class. I didn't invent this; this was analysis and research that had been done in a number of jurisdictions. It says that where parents have some capacity to organize on behalf of their families and kids for supports and services, they do that. Where they have the capacity, financially, to donate, you will see the schools in those areas have more supports and after-school programming. Where they have the ability to provide time and lead volunteer activities, like soccer, baseball or cricket leagues, or anything like that, you will find that those kids get access to those services.

In poor neighbourhoods, where people are just struggling to get from day to day, get food on the table and pay the rent, you find there isn't the capacity to build the social infrastructure in those neighbourhoods.

It said to us there is a real job for all of us, collectively, to do. It's a long story. There's really great work and a lot of investments with philanthropists and government dollars coming together to leverage investment in those communities.

At the same time, we started looking at some of the other features of these communities. Not only do they not have the support and the social infrastructure required, they didn't have a lot of grocery stores. That's interesting. Why is that? The money wasn't there in those communities to support the large, brand, chain grocery stores. So where do people get their food? Convenience stores. What do they buy? Processed foods that cost

more than what you would pay if you went to the grocery store. There is a cost to being poor; there is a premium cost to being poor.

So one of the other things we started to think about was access to capital. Not only are there food deserts in which there aren't grocery stores, there are also banking deserts. Bank branches were closing one after another in these neighbourhoods. The reason is that the bank model depends on a full range of supports and services. They sell mutual funds, insurance products and a whole range of ancillary products that are more than the families in these neighbourhoods, which might just need to cash cheques and do withdrawals, require. That kind of customer can't support the full-service bank's costs.

Some banks worked with us to try to bring in cheque-cashing operations, but it was difficult in their circumstance. They do their charity through philanthropy and not through their business model. While we had a couple of good experiments, it didn't work, but it led us to wonder where people are getting their money if they require supports. It's the same question as to how they get their food. Again, they go to convenience stores.

How do they get their furniture, televisions and home furnishings? Rent-to-own stores have popped up in these neighbourhoods.

We started to look at the fringe lending industry. We decided to do another piece of research to map where these fringe lending outlets were in the city of Toronto and how long they had been around. Over a period of a number of years — I won't go into all of the statistics — but I can tell you that, again, the numbers just proliferated. In fact, if you look at the most recent report — 2016 — from ACORN, you will see there are over 1,500 across Canada. We were dealing with the Toronto area with the work we were doing, but over that period we examined, the numbers just grew.

The other interesting thing is that if you look at that map and hold it up next to the map of the poverty neighbourhoods, they overlap. That is the customer base. That's the market. Yes, up and down Yonge Street and across Bloor-Danforth, because those are major subway stops or access points. Outside of that, they're all around in these neighbourhoods of Scarborough and Etobicoke, where there are concentrations of families living in poverty.

So we know who the market is. We know that, along with other providers of service, whether it be convenience stores or rent-to-own stores, these costs of borrowing money are higher than what you would be able to get for a loan at a regular bank. However, if you are in a precarious situation financially, you're not able to access that. Where do they get loans? They do so from fringe lending institutions. As I said, they know their market, and they know what they are doing.

We began to do a lot of work with organizations around caps on payday loans, first, as well as raising the issue that Senator Ringuette has pointed out around usurious rates. In different provinces, different caps have been set, and it's been an ongoing process to move the industry bit by bit.

This was back in the mid-2000s that we were doing this work. We began engaging the provincial government. They started to move on examining caps. There were proposals and whatever. I can tell you that over the last few years they've done some good work. They moved a rate on payday loans from $21 for $100 down to $15 as of this year. Other provinces have done similar work, which is terrific.

But in all of this, there is still the fact that that's just the provincially regulated payday loan rate. The usurious rate, or the criminal interest rate, is contained in the Criminal Code, and that's where we have to look to examine whether our numbers are right.

• (2150)

The existing Criminal Code has a rate of 60 per cent. Senator Ringette's bill proposed bringing the criminal interest rate down to 25 per cent, and the committee amended that and I believe landed at 45 per cent, and that is before us now.

I want to make the case that the 45 per cent is entirely too high. I can understand that there are arguments that had been made around the actual cost of that business. It's a higher-risk cost than some of the larger loans, et cetera, but is that rate the right rate? I can understand the committee's concerns, but they probably heard from some in the industry, and I will make the case that 45 per cent is too high.

The history on this, by the way, is very interesting. There is a report that Senator Ringuette shared with me that I would commend to you to read. It's from the National Consumer Law Center. It's entitled *Why 36%: The History, Use, and Purpose of the 36% Interest Rate Cap*. There is a little history section in there that takes us back.

I find these things fascinating, like the prohibition work that I tried to understand with respect to looking at Bill C-45. On this one, right back to the last 100 years there have been debates about usurious interest rates. In fact, there was a time when there was a burgeoning industry — not regulated — called loan sharks out there. That's how people in these communities got access to money when they couldn't borrow from a bank.

In the United States they worked hard to drive that business away and to regulate. In 1914 and up to 1940, all through that period of time, the united small loans act, or something like that, was brought in. And in state by state by state, because most of this was state regulated, they looked at setting that rate, and the vast majority set it at 36 per cent. If you read the history you will see. I don't know the rationale for that number, but for 40 years in the States it was 36 per cent. Then they went through a period of deregulation, and now they've come back to regulation, and lo and behold the rate that is the average rate that appears state by state and the rate that's coming back is 36 per cent.

Perhaps when Senator Ringuette does her wrap-up speech she might tell us more about how they landed on that and why, for a century, that number has been the percentage rate that the United States has felt was appropriate in these kinds of small loans.

I want to give you a snapshot of some recommendations from ACORN, which is a well-known anti-poverty organization. In their latest work over the past year and a half — I think it was about a year and a half to two years that it was published — they had recommendations for all orders of government. At the municipal government level, they recommended introducing regulation to limit the number of payday loan stores in the city and restrict the number of licences provided to payday lenders. Again, I'm using this payday lending in an equal exchange way with fringe lenders and the small-loan lenders. They were focusing on that terminology here.

What's interesting to note is that that recommendation is taking hold. Ottawa recently brought in a cap on the number of licensed cheque cashing, small-loan, fringe lending institutions. Toronto has just done that as well as many places across the country. That's a recommendation that has been done. They also recommended that they support the creation of alternative low-interest products. The provincial government asked them to look at loan repayment using models that extend the payback period, enforce bans on rollover loans, which is where people really get caught up where they get in way over their head and are in very precarious situations trying to get out of it.

The Hon. the Speaker *pro tempore*: Senator Lankin, I'm sorry to interrupt, but your time is up.

Senator Lankin: May I have five minutes to conclude?

The Hon. the Speaker *pro tempore*: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator Lankin: Thank you very much.

There were a number of recommendations to the province and to the federal government; again, there were a number of recommendations. You can read this report, but they are particularly looking for things like banks having to provide low-interest overdraft protection, bringing down the cost of NSF cheques and creating alternatives to predatory lending such as postal banking, and they call for an amendment to the Criminal Code to lower the maximum interest rate from 60 per cent to 30 per cent. They go lower than the 36 per cent in the States, but 36 per cent, may I say, is significantly lower than the 45 per cent that the committee landed on here.

The last thing that I want to do is talk about the fact that there's more than one thing that we need to do. There were a lot of recommendations in that paper and a lot that have been talked about. Here, in this chamber, we've also heard people call for financial literacy education. The language is changing a little bit, and people are now talking about financial capability in the sense of it's not just about knowing the facts but it's about being able to apply them to your own life situation. And there is a call for more education on this front.

I had the opportunity a number of years to be on the board of an organization called the Canadian Foundation for Economic Education, CFEE. They've been doing a phenomenal job working with ministries of education across the country, trying to bring in course curriculum. It started in high schools, but now they're starting to look at an even younger age. There are some new developments in Saskatchewan, Quebec, Ontario and Manitoba. There were meetings last week with B.C. and Alberta.

This is an active file and it's ongoing, and I support that strategy very much. We have to give people tools to be able to manage these things in their own lives. We have to be able to explain to them how the fine detail in these loan situations operates. All of that needs to be done to help this situation, along with some of the other things I pointed out earlier in terms of support for social services, access to food and transit and a range of things. But, at the end of the day, if we have what I would call usurious rates in our Criminal Code, nothing can protect people from that. The rate we have now is too high; the rate that the committee has suggested is too high.

If we've been talking about this in North America for 100 years, we know that certainly in the world's history it has been a debate for much longer. I remember as a child the stories about the moneylenders being thrown from the temples, and there is certainly a history from a social justice perspective of wanting to put limits on what greed can do to poor families that are struggling.

This bill is a good step in that direction, but, again, I urge that some thought be given to lowering the rate of 45 per cent that the committee has put in to something that's a compromise between the 25 and the 45 per cent, and that could be 35 or 36 per cent, which would be in line with the North American standard.

Thank you very much.

The Hon. the Speaker *pro tempore*: Senator Lankin, would you accept a question?

Hon. Scott Tannas: Does the 36 per cent include fees or not? The problem in Canada is the 45 per cent includes all fees, so an ATM fee, everything else, and that is where we struggled. We know it's different in Quebec. They exclude the fees and they're 35 per cent. What about in the United States?

Senator Lankin: It isn't uniform. From state to state it's different. In fact, in some states there are fees on top of that 36 per cent, and in many states they are incorporated in that 36 per cent.

[*Translation*]

Hon. Pierrette Ringuette: I would like to thank Senator Lankin for her comments. I would also like to take this opportunity to say that, with respect to the studies that Senator Lankin mentioned that cover a century of history in this field in the United States, two weeks ago, I got approval from the institution in question to translate the research into French. Once I have that translation, I will forward English and French versions of the document to my honourable collages.

On that note, I would like to move adjournment in my name for the remainder of my speaking time.

(On motion of Senator Ringuette, debate adjourned.)

• (2200)

CANADA ELECTIONS ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Frum, seconded by the Honourable Senator Housakos, for the second reading of Bill S-239, An Act to amend the Canada Elections Act (eliminating foreign funding).

Hon. Renée Dupuis: Honourable senators, I rise today to speak at second reading of Bill S-239, introduced by Senator Frum and entitled An Act to amend the Canada Elections Act (eliminating foreign funding).

I understand that Bill S-239, which amends some sections of the Canada Elections Act, was introduced shortly after the tabling of the report from the Standing Senate Committee on Legal and Constitutional Affairs on that topic.

The Standing Senate Committee on Legal and Constitutional Affairs started working on amendments to this act in its seventeenth report, tabled in the Senate in June 2017. This report followed the order of reference of November 1, 2016, through which the Senate authorized the committee to examine and report on the reports of the Chief Electoral Officer on the 42nd General Election of October 19, 2015 and associated matters dealing with Elections Canada's conduct of the election.

Allow me to quote one of the findings of the report:

> As technology develops and third parties find new ways to engage in and influence our political process, there are other activities that should be considered for possible regulation when modernizing the third-party regime in the CEA, such as: conducting polls, organizing and promoting of certain types of rallies and events, preparing research and assembling data prior to the election period with the intention of using the research and data in an election campaign, among other activities. The committee wishes to draw attention to the fact that in order to ensure electoral fairness, there must be transparency and clarity in the rules and reporting with regards to a broader range of promotional activities that third parties engage in during elections.

In a written response to the seventeenth report of the committee, which she tabled in the Senate on November 14, 2017, the federal Minister of Democratic Institutions referred to her mandate to analyze, with the Communications Security Establishment, ways to defend the Canadian electoral process from cyber-threats. The minister's response delivered on the commitment she had announced a few months earlier on February 7, 2017, in the House Commons to strengthen our democratic process.

The report released by the Communications Security Establishment, following the risk analysis conducted at the minister's request, identifies three aspects of the democratic process that could be influenced by external forces in Canada in an attempt to influence how Canadians vote.

The report states, and I quote:

> Against elections, adversaries use cyber capabilities to suppress voter turnout, tamper with election results, and steal voter information.
>
> Against political parties and politicians, adversaries use cyber capabilities to conduct cyberespionage for the purposes of coercion and manipulation, and to publicly discredit individuals.
>
> Against both traditional and social media, adversaries use cyber capabilities to spread disinformation and propaganda, and to shape the opinions of voters.

The report indicates that current technologies can be used to influence voters as they carry out their democratic right to elect the representatives they want to govern them. However, the report also demonstrates that there are different kinds of interference that can be combined to try to influence voters in several countries, including Canada. These external influences exploit technology as well as people's behaviour and social habits. This speaks to the complexity of the issue.

Furthermore, on March 14, Elections Canada released a report entitled *Transparent and Level: Modernizing Political Financing in Canada*, following a round table on political financing hosted in Montreal in October 2017 by the Public Policy Forum, in partnership with Elections Canada. The round table discussions focused on three themes, namely public and private financing, transparency, and campaign spending.

According to the report, the following finding emerged from the discussions, and I quote:

> The political finance regime must be equipped to regulate beyond money and to ensure the integrity of Canada's democracy by holding political entities to account for digital content and micro-targeted messages while taking care not to intrude on free speech rights.

In light of the issues and priorities raised during the round table discussions and based on its literature review, the Public Policy Forum makes eight recommendations in the report to strengthen political financing rules in Canada: (1) allow only eligible voters, i.e. Canadians, to make political contributions; (2) level the playing field for donations to registered third parties with those for political parties; (3) extend campaign-spending limits to kick in six months prior to the fixed election date; (4) increase transparency around third parties; (5) maintain the current balance between public and private contributions; (6) lower the threshold for public reimbursement; (7) regulate in-kind contributions enforced through administrative penalties; and (8) increase transparency around social media and micro-targeting.

This report notes that political communication has changed significantly. For example, it no longer necessarily targets a national audience. We are seeing a proliferation of many digital messages over a variety of channels, each micro-targeted to reach small, specific groups based on their behaviours and preferences. Citizens are being treated as captive political consumers by their usual networks.

Colleagues, these recent reports illustrate the scope of the issues that need to be studied as part of the review of the Canada Elections Act, but they also show that these issues are linked. It seems to me that this is a multi-faceted review that calls for a thorough examination of various matters involved in the much-needed review of the Canada Elections Act, which is the focus of two bills at present.

In addition to Bill C-50 on political party financing, which is currently being studied in the Senate by the Standing Committee on Legal and Constitutional Affairs, the acting federal Minister of Democratic Institutions tabled Bill C-76 on April 30, the short title of which is Elections Modernization Act. It will make several changes to the voting system, including establishing spending limits for political parties and third parties during the election period.

One aspect of this bill concerns the obligation for political parties to adopt policies for the protection of the personal information they gather based on the data provided to them by the Chief Electoral Officer of Canada, including voters' names, addresses, and phone numbers, as well as any personal data that the parties can access in other databases. These policies will have to be available online and will have to specify the type of data collected, the source of the data, and how it is used, along with how the personal data is protected and who is responsible for handling privacy complaints. These policies will have to be submitted to the office of the Chief Electoral Officer, or the party could be hit with sanctions, including loss of its recognized party status. In my opinion, Bill C-76 ought to be studied with care by the Senate, in tandem with Bill C-50.

Do Bills C-50 and C-76 go far enough? We might wonder. Should they, for instance, require the parties to limit the use of data collected in this way without getting the public's consent to use the data for other purposes? Should they require the parties to provide electors access to the data that they have on them, if only to give the electors the opportunity to ensure the accuracy of the data?

Honourable colleagues, considering that the minister has indicated that the government is prepared to review the amendments to Bill C-76, I believe that the concerns surrounding Bill S-239 could be looked at during consideration of Bill C-50 and C-76 at the Senate.

Thank you.

[*English*]

• (2210)

The Hon. the Speaker *pro tempore*: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Martin, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.)

CANADA REVENUE AGENCY ACT

BILL TO AMEND—SECOND READING

On the Order:

> Resuming debate on the motion of the Honourable Senator Downe, seconded by the Honourable Senator Eggleton, P.C., for the second reading of Bill S-243, An Act to amend the Canada Revenue Agency Act (reporting on unpaid income tax).

Hon. Marilou McPhedran: Honourable senators, I rise to speak today on the second reading of Bill S-243, An Act to amend the Canada Revenue Agency Act (reporting on unpaid income tax). I'll use CRA and ARC as acronyms for the agency in this statement.

[*Translation*]

I would like to thank Senator Downe for introducing this bill and for working hard to ensure the CRA is accountable to the citizens it serves. Prior statements by Senators Downe, Bovey, McIntyre, and Galvez all pointed to the CRA's lacklustre public accountability performance. Good governance requires transparency. Without transparency, there can be no meaningful accountability.

[*English*]

This is an important bill. Tax evasions, while often invisible to most of us, nevertheless impact human rights and the welfare of citizens. We are reminded by former UN independent expert on the promotion of a democratic and equitable international order, Mr. Alfred de Zayas, that:

> Corruption, bribery, tax fraud and tax evasion have such grave effects on human dignity, human rights and human welfare that they shock the conscience of mankind. They should be prosecuted nationally and internationally.

This bill will promote transparency and accountability so that we may move forward and strengthen good governance.

Though this bill is important in the context of exposing tax evasion and tax gaps, it also is a step forward in holding the CRA accountable if and when the CRA applies its considerable power over Canadians in ways that have punitive impact that are out of proportion, even if unintended. It is reasonable for the CRA to demand proof of payment by way of invoices and receipts that

taxpayers are required to keep for six years. The Income Tax Act also allows the CRA to audit, review or seize items without a court order. This includes seizing personal bank accounts.

But this bill presents operational challenges that we need to address. The issues raised in this bill have been reinforced by examples presented by some senators who have spoken previously. In 2016-17, the Office of the Taxpayers' Ombudsman received 1,490 new individual complaints, up 5 per cent from the previous year. The ombudsman indicated that CRA is not improving much. This is an increase in complaints, and it means that much more needs to be done. Inconsistent or incorrect information provided by the CRA is the largest source of complaints, representing almost 25 per cent of all complaints received, while delays in processing T1 adjustments is a new upward trend in complaints.

The Auditor General of Canada found that between March 2016 to March 2017, telephone agents at the Canada Revenue Agency's call centre answered only 36 per cent of 53.3 million incoming calls and provided incorrect answers to auditors nearly 30 per cent of the time.

During the same period, the CRA blocked some 29 million of the 53-plus million incoming calls, resulting in a busy signal or a message to try back later. Callers who were unable to get through would, on average, call back three or four times. However, the agency still claimed they had met their targets for all telephone lines, reporting that 90 per cent of callers are connected to either the automated self-service system or a call centre agent. However, the CRA did not include the blocked calls as part of their statistics.

Unfortunately, some of the individuals who are most affected by these inefficiencies are families with a disabled family member and/or those living in poverty. The Standing Senate Committee on Social Affairs, Science and Technology heard from families who are struggling to access the services they deserve, the services we have promised. Only 40 per cent of the 1.8 million Canadians living with severe disabilities access benefits available to them. The remainder are deterred, at least in part, by the burdensome and onerous process imposed on applying for these benefits through the CRA's administration of the Disability Tax Credit.

Further issues are encountered by a lack of transparency about claiming medical expenses, and an opaque review process for assessing them. Benefit programs for those living in poverty that rely on the CRA's administration face challenges as well, further exacerbating poverty and its effects.

The CRA seems often to be hampered by inefficiency, disorganization and priorities that don't align with the values of many Canadians. We seem to encounter the evidence of these gaps repeatedly. Have no doubt. Vulnerable Canadians all too often bear the brunt of this maladministration. Any steps that can be taken to overcome its operational challenges are welcome. Enhancing transparency and accountability are crucial steps towards seeing this happen.

Accountability is not possible without accurate public disclosure by CRA and regular audits in the public interest.

[Senator McPhedran]

[*Translation*]

Esteemed colleagues, I'm sure you know that we have a responsibility in this House to conduct fair, thorough reviews. We must represent the most vulnerable members of society, and that is what we will do in sending the bill to committee for a thorough study.

[*English*]

• (2220)

I look forward to reading the report by the Standing Senate Committee on Social Affairs, Science and Technology on their study of the disability tax credit and the disability savings plan. I urge honourable senators to support this bill and to ensure that we can guide the way with changes that will make the CRA serve Canadians better. Thank you, *meegwetch*.

The Hon. the Speaker *pro tempore*: Are honourable senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker *pro tempore*: It was moved by the Honourable Senator Downe, seconded by the Honourable Senator Eggleton, that this bill be read a second time.

Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and bill read second time.)

REFERRED TO COMMITTEE

The Hon. the Speaker *pro tempore*: Honourable senators, when shall this bill be read the third time?

(On motion of Senator Downe, bill referred to the Standing Senate Committee on National Finance.)

INTERNATIONAL MOTHER LANGUAGE DAY BILL

SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Jaffer, seconded by the Honourable Senator Cordy, for the second reading of Bill S-247, An Act to establish International Mother Language Day.

Hon. René Cormier: Honourable senators, if I would be on stage tonight at this time, my instinct would probably bring me to either dance, sing or make you clap to keep your attention. But since I am in this noble chamber, I will use words and language to speak to you about Bill S-247, An Act to establish International Mother Language Day.

[*Translation*]

This bill was introduced by Senator Mobina Jaffer on March 22. I want to thank her for her commitment to promoting language diversity in Canada, and in particular our official languages. Her presence on the Standing Senate Committee on Official Languages clearly speaks to her willingness to promote bilingualism and linguistic duality in Canada.

[*English*]

As the honourable senator said so eloquently during her April 17 speech:

> This bill does not dispute that English and French are Canada's official languages. On the contrary, English and French are the two official languages of Canada as guaranteed by the Canadian Charter of Rights and Freedoms. . . . Honourable senators, English and French bilingualism makes our country unique. Bilingualism forms the foundation of Canadian identity and is one of the greatest legacies we can pass on to future generations.

[*Translation*]

As Senator Jaffer pointed out, this bill would promote mother languages and linguistic plurality as central to an individual's identity and cultural development.

This was the UN's intent in celebrating this day. I quote:

> International Mother Language Day has been observed every year since February 2000 to promote linguistic and cultural diversity and multilingualism. February 21 was chosen in honour of the students killed by police in Dacca (now the capital of Bangladesh) while they were protesting to have their mother language, Bengali, declared as the second national language of Pakistan at the time.

Although the proposed date is in honour of a tragic moment in history, it urges us to remember just how important language is to developing one's identity. The relationship we have with our mother language helps us discover our past and our individual cultural heritage. If we are confident in using our mother language and in our identity, we are better equipped to learn other languages and have positive interactions with others from different backgrounds.

To illustrate this, I will repeat the excerpt from a United Nations statement quoted by Senator Jaffer:

> Languages are the most powerful instruments of preserving and developing our tangible and intangible heritage. All moves to promote the dissemination of mother tongues will serve not only to encourage linguistic diversity and multilingual education but also to develop fuller awareness of linguistic and cultural traditions throughout the world and to inspire solidarity based on understanding, tolerance and dialogue.

[*English*]

Having said that, the national Canadian context which surrounds this bill brings me to reflect on the very meaning we must give to the notion of mother tongues, considering the considerable added value of plurilingualism in enriching Canadian citizens both culturally and individually; the preservation and promotion of Indigenous languages as a necessary step towards reconciliation with First Nations, Inuits and Metis communities; and the continued need to ensure the development and vitality of French and English, our two official languages, which serve as the languages of our national dialogue.

[*Translation*]

In Canada, more than 130 languages other than French, English or one of the Indigenous languages are reported by Canadians as being their "mother tongue." In 2016, more than 22 per cent of the Canadian population had a mother tongue other than English, French, or an Indigenous language.

Although we may think that this percentage is surprising or indicative of a new Canadian reality, that is not at all the case. In a recent study by Statistics Canada on the evolution of the Canadian population's composition by mother tongue from 1901 to 2016, we see that the diversity of mother tongues in Canada is not a new phenomenon.

In 1901, more than one tenth of the Canadian population had a so-called foreign language — a language other than French, English, or an Indigenous language — as a mother tongue. As a result of the two major waves of immigration in the 20th century, this percentage would only increase, and it has increased even more quickly since 1986 due to the diversification of the flow of immigrants who have settled in Canada.

Statistics Canada's comprehensive study of the major language trends clearly highlights the diversity of languages spoken in Canada. During the early decades of the 20th century, Celtic languages and German were among the most dominant languages spoken in Canada other than English and French. Today, it is Asian languages. Multilingualism is therefore part of our country and there is no doubt it enriches our society.

That being said, honourable senators, this bill also requires us to think about the major issues surrounding the disappearance, preservation and reappropriation of Indigenous languages. Colonialism and the expansion of the Canadian state had devastating effects on Indigenous peoples. As the victims of residential schools, First Nations, Métis and Inuit communities witnessed the decimation of their mother tongues and cultures by successive Canadian governments.

In the 2011 census, over 60 Indigenous languages were reported, but only 14.5 per cent of First Nations members still had an Indigenous language as their mother tongue. In 2016, the number of Indigenous languages reported was more than 70. Over 33 of those languages were spoken by at least 500 individuals, while some were spoken by as few as six people.

Some other languages are faring better, however, and are still very much alive. That is the case with some of the Cree languages, Inuktitut, and Ojibway. It is therefore vital that the government implement measures to preserve and promote Indigenous languages across the country.

[*English*]

As announced recently by Canadian Heritage Minister Mélanie Joly, the federal government plans to recognize Indigenous languages rights with the passage of a bill come the fall. This legislation could notably create a new office of commissioner to protect and promote Indigenous languages throughout the country.

My understanding is that the details of the upcoming Indigenous languages bill are part of a list of principles co-developed over the past year by federal officials and First Nations, Inuit and Métis organizations.

[*Translation*]

The bill that the Minister of Canadian Heritage is working on would make Indigenous languages the country's "first languages," rather than official languages. This bill will recognize their privileged status in Canada since these languages and First Nations people were here well before white people arrived in this land and they therefore have a rich history that needs to be protected and promoted.

• (2230)

That is why the minister wants to, and I quote:

> . . . recognize indigenous languages as a fundamental right under section 35 of the Constitution.

This move will implement one of the many recommendations issued by the Honourable Senator Sinclair and the Truth and Reconciliation Commission.

The Government of Canada is proposing a variety of initiatives for preserving Indigenous languages, such as recording certain languages for posterity and encouraging education to ensure that languages are passed on. An additional $90 million over five years has been announced for saving Indigenous languages.

Our honourable colleagues, Senators Sinclair and Joyal, both spoke eloquently about issues surrounding the preservation of Indigenous languages in Canada during the debate on Bill S-212. I will not elaborate further on those issues, but I fervently hope that the reappropriation of these languages is recognized and encouraged.

[*English*]

We call a mother tongue the language that we first learn as a child. In the case of Statistics Canada and the national census, a mother tongue is defined as the first languages learned at home by an infant that is still understood at the moment of the census.

In the case that a child learns from parents or people in his surroundings speaking multiple different languages, the child can acquire multiple languages simultaneously, each being considered a mother language. This is the case for more and more Canadians who come from exogamous families or backgrounds.

[*Translation*]

Like all languages learned starting at birth by a child, the two official languages that Canada acquired at its birth have enabled it to maintain an ongoing dialogue between its communities, welcome immigrants from around the world, and grow as a nation over the past 150 years. These two languages became languages of harmony.

Today, that vision inspires many young Canadians. During the first phase of our study on the modernization of the Official Languages Act, the Standing Senate Committee on Official Languages heard some very eloquent testimony from a young man from New Brunswick whose mother tongue is English. His comments clearly reflect how young people across Canada feel:

> . . . learning French and English as a second language should be considered a right as Canadians in a country that is supposed to be bilingual. . . . Canadians cannot be passionate about both official languages if they do not have the opportunity to learn them. And they cannot have the opportunity to learn them without the support of the federal government and its partnership with each and every province. . . . The solution to this is to allow everyone to learn French and English . . . and to in fact become what is actually a bilingual country.

[*English*]

This dream expressed by youth throughout Canada of a country where both official languages are actively used by everyone, confirms that much still needs to be done.

In this sense, the objective to progress towards the equality of status and usage of French and English is still today very much an objective, despite it being written in the Canadian Charter of Rights and Freedoms.

If there has been important progress in the advancement of bilingualism in Canada, there is still much work to be done in the learning and usage of both these languages by all Canadians. It is concerning to hear that if 87 per cent of francophones outside of Quebec are bilingual, 61 per cent of anglophones in Quebec are bilingual, and 41 per cent of French-speaking Quebecers are bilingual, only 6 per cent of English speakers outside of Quebec are bilingual. It is clear that we still have much work to do to encourage active use of both official languages by all Canadians.

[*Translation*]

In conclusion, honourable senators, Canada has come a long way in 150 years. It has evolved, and it has welcomed, and will continue to welcome, the multitude of incoming cultures that enrich our country. It is perfectly valid for all Canadians to want to celebrate their own cultures of origin, and naturally, that means being able to celebrate their own mother tongue, or first language, if you will.

Above all, we must not set the recognition and promotion of indigenous languages and multilingualism in Canada against the fundamental principle of two official languages as the social contract of our nation. That being said, Canada is a country that adopted two languages, English and French, for the sake of harmony. Let us therefore ensure that these two languages, which are meant to be unifying and inclusive and to be more than just tools for communication, can be learned and appreciated by all Canadians.

To inspire us to achieve that goal, let me read you a quote from Senator Jaffer's speech:

> I am and always will be a strong advocate of Canadian bilingualism. Let me once again remind all of you that Bill S-247 does not take away from our proud French and English bilingualism; it simply encourages all Canadians to celebrate and showcase their own mother tongue on February 21.

In closing, honourable senators, and in order to honour Senator Jaffer, allow me to say thank you in her mother tongue, Swahili. *Asante sana*, Senator Jaffer.

(On motion of Senator Martin, debate adjourned.)

NATIONAL MATERNITY ASSISTANCE PROGRAM STRATEGY BILL

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Mégie, seconded by the Honourable Senator Dupuis, for the second reading of Bill C-243, An Act respecting the development of a national maternity assistance program strategy.

Hon. Marilou McPhedran: Honourable colleagues, I rise today as a senator, a professor, a human rights lawyer, and especially as a mother.

I want to thank MP Mark Gerretsen for introducing Bill C-243 on developing a national maternity assistance program strategy and I thank Senator Mégie for sponsoring the bill.

[*English*]

I would like to begin by encouraging all of our colleagues to support this bill being sent to committee as soon as reasonably possible. The impacts of a national maternity assistance program for Canada could be enormous in moving us closer to achieving our commitment to the UN Sustainable Development Goals, or the SDGs, particularly goal 5 on reaching gender equality by 2030.

We often think of the SDGs as being directed at poorer countries, but Canada has not achieved goal 5. Particularly, research on the SDGs found that the average amount of time spent on unpaid domestic and care work is more than threefold higher for women than men, according to survey data from 83 countries and areas.

Furthermore, time spent on domestic chores accounts for a large proportion of the gender gap in unpaid work. Canada's commitment to the 2030 Agenda of the United Nations, which includes the sustainable development goals, relies on implementation of laws and policies such as this potential maternity assistance program.

We have evidence of what is possible because Quebec has successfully established a Safe Maternity Experience program for women who are pregnant or nursing, allowing them to live their rights as active members of our society able to retain employment, to be fiscally independent while nursing and being the primary providers for their young — a choice that every woman should be able to make and a choice that should always be available to any woman choosing to have a family or become pregnant.

• (2240)

As Canadians, we have the right to safe, accessible and just health care. Under section 7 of the Canadian Charter of Rights and Freedoms, as Canadians we have the ". . . right to life, liberty and security of the person and the right not to be deprived thereof . . . ." We should therefore extend those same protections to women who choose to have family and exercise that liberty and remain employed.

Moreover, under the UN Convention on the Elimination of All Forms of Discrimination against Women, CEDAW, which Canada ratified more than 30 years ago, the right to work is an inalienable right of all human beings. We, as women, as mothers, have the right under CEDAW:

> . . . to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

As outlined in CEDAW, state signatories have agreed:

> To introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances . . . .

This is specific to supporting women's participation in public life and to combining family obligations. These are achievable, and, in fact, we have already achieved many aspects of this goal. And there are essential aspects of a woman's livelihood that include her right to choose and her right to live her rights as a woman in all aspects of society.

Women have a crucial role to play in the workforce. I wish to reiterate what our colleague in the other place, MP Gerretsen, said in his second reading speech on May 17, 2016:

> The data on this is clear that while overall labour participation among women has increased from 37% in 1976 to 47% in 2014, women remain drastically under-represented within many traditional male occupations.

He also noted:

> While some incredible work is being undertaken by the private and not-for-profit sector to encourage more women to enter the trades, I believe government also must do its part to create a positive environment to encourage more women to enter the workforce in these traditionally male-dominated occupations.

Fundamentally, the right of women in the workforce comes down to one thing: knowing, claiming and living human rights. Women, like men, have the right and the need to exert that right to fully participate at all levels in society. This should not be hindered by maternity, nor should it be the basis for discrimination or unjust treatment of nursing women.

Having a family is one of life's greatest wonders, although it can be stressful and incredibly difficult. Financial stresses should not be an added barrier for women who wish to start a family or who end up being solely responsible for their family.

I would also like to highlight the large gaps in privilege many women in Canada face. Many cannot financially afford children or larger families. Establishing a national maternity assistance program might alleviate some stresses to enable better living conditions for these women.

Lastly, I began this speech by speaking to you as a mother, and as a mother of two adult children, I wish to share with you that maternity and nursing were among the most life-changing experiences in my life. I hope others will be able to live their rights, as I have been privileged to do, to have a safe and joyous pregnancy in their life and be able to fully enjoy their right to motherhood.

Please, colleagues, let's send this bill to committee to further evaluate its impact and the possible outcomes it could have for millions of Canadians for generations to come. Thank you, *meegwetch*.

(On motion of Senator Dupuis, debate adjourned.)

[*Translation*]

BILL TO CHANGE THE NAME OF THE ELECTORAL DISTRICT OF CHÂTEAUGUAY—LACOLLE

SECOND READING—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Pratte, seconded by the Honourable Senator Lankin, P.C., for the second reading of Bill C-377, An Act to change the name of the electoral district of Châteauguay—Lacolle.

Hon. Dennis Dawson: Honourable senators, I rise in support of the bill sponsored by our colleague, Senator Pratte. He sponsored this bill because he is the senator representing the riding in question. I too would like to express my support for this initiative.

As you have already heard more than once, this week I am celebrating my 41st anniversary on Parliament Hill. The only person in this room who was here at the time was Senator Harder. Other members have served since then, and my friend Senator Joyal arrived here before me. Thus, I have seen many changes to riding names over the years. I am therefore pleased to support Senator Pratte, because some anomalies deserve to be corrected.

When it was decided to rename the riding with "Lacolle" in the title, it was a mistake. Legislative anomalies do happen. Sometimes, when amendments are discussed too quickly without carefully study, mistakes are made. The people who created that riding confused the municipality of Saint-Bernard-de-Lacolle with the city of Lacolle. From the first election campaign, people asked that the name be changed. Furthermore, the candidate who was elected, Mrs. Shanahan, made a campaign promise to have the riding name changed if she won the election. Now she is keeping her word and introduced a bill to do just that, because the name is not at all appropriate.

I would like to share an example brought to mind by some of my colleagues from Quebec. When my friend, Senator Maltais, came to the Senate, there was a riding known as Québec East, which was a historic riding. Louis Saint-Laurent was from that riding, and it has produced quite a number of prominent parliamentarians. When it was called Québec East, it was located east of Quebec City. For 20 years, everyone was too nostalgic to change the name, but over time, the riding ended up in the west end of Quebec City. The riding, which was represented by our colleague, Senator Verner, required changing the electoral map. It was renamed Louis-Saint-Laurent because the original name was no longer appropriate.

These anomalies should be fixed. This bill should be sent to committee as quickly as possible if we want this to be done in time for the next election campaign. We need to act fast.

I am therefore seeking your collaboration to get the bill to committee as quickly as possible so the committee can make this simple change and correct an anomaly in a riding name. Thank you.

(On motion of Senator Martin, debate adjourned.)

OFFICIAL LANGUAGES

BUDGET—STUDY ON CANADIANS' VIEWS ABOUT MODERNIZING THE OFFICIAL LANGUAGES ACT—NINTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the ninth report of the Standing Senate Committee on Official Languages (*Budget—study on Canadians' views about modernizing the Official Languages Act—power to hire staff and to travel*), presented in the Senate on May 29, 2018.

Hon. René Cormier moved the adoption of the report.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

[*English*]

STUDY ON PRESENT STATE OF THE DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

TWENTY-FIRST REPORT OF BANKING, TRADE AND COMMERCE COMMITTEE AND REQUEST FOR GOVERNMENT RESPONSE ADOPTED

The Senate proceeded to consideration of the twenty-first report (interim) of the Standing Senate Committee on Banking, Trade and Commerce, entitled *Taxation of the Hutterites in Canada*, tabled in the Senate on May 31, 2018.

Hon. Douglas Black moved:

> That the twenty-first report of the Standing Senate Committee on Banking, Trade and Commerce, tabled on Thursday, May 31, 2018, be adopted and that, pursuant to rule 12-24(1), the Senate request a complete and detailed response from the government, with the Minister of Finance being identified as minister responsible for responding to the report.

He said: This particular study was a very surgical study that we did at Banking Committee in respect of a matter that came to our attention respecting the taxation of the Hutterite community in Canada.

• (2250)

I will read into the record the committee's observation:

> The committee notes with concern the issues raised by the Hutterites with respect to section 143 of the Income Tax Act and is of the view that these issues warrant further review by the Minister of Finance. Recognizing that fairness is a key principle of tax policy, the review should examine ways to ensure that for tax purposes the Hutterites are effectively treated the same as other farmers.

We have requested the Minister of Finance to report to us in respect of his deliberations.

The Hon. the Speaker: Are senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and report adopted.)

[*Translation*]

THE SENATE

MOTION TO CALL ON THE GOVERNOR IN COUNCIL TO APPOINT CLERK OF THE SENATE UPON RECOMMENDATION OF THE SENATE—DEBATE CONTINUED

On the Order:

> Resuming debate on the motion of the Honourable Senator Housakos, seconded by the Honourable Senator Martin:
>
> That, in the interest of promoting the autonomy and independence of the Senate, the Senate calls on the Governor in Council to appoint the Clerk of the Senate and Clerk of the Parliaments in accordance with the express recommendation of the Senate.

Hon. Raymonde Saint-Germain: Honourable senators, since my appointment to the Senate, I had the opportunity to work on several files jointly with Senator Housakos in a frank and transparent collaboration. Of course, I share his desire to improve Senate governance. Motion No. 328 allows us, as members of this chamber, to look at the issue of the appointment of the Clerk of the Senate and, in a wider perspective, to look at reforms needed in our institution.

[*English*]

The Clerk of the Senate and Clerk of Parliaments is currently one of the three senior officers of the Senate administration, pursuant to a decision made by the Standing Committee on Internal Economy, Budgets and Administration. It has not always been like this. In the past, the Clerk of the Senate was the highest official in the Senate administration, and he was bestowed an

administrative authority commensurate with the prominence of his duties. I have already expressed my reservations in regard to the current structure, for I think it is not functional.

But this is not the issue that we are dealing with this evening. The role of the Clerk of the Senate and Clerk of Parliaments is nonetheless part of our parliamentary tradition and we must value it for it is fundamental to the proper functioning of the Senate. He or she must have extensive experience in Parliament, be familiar with the nuts and bolts of our institution and have proven to be a sound manager and not be involved in partisan politics.

Colleagues, as you know, the quality of the work we carry out in this chamber has a lot to do with the expertise of the Clerk and his team who support us every day. Senator Housakos asserted with great relevance that the Senate has always been well served by the people who perform the duties of the Clerk of the Senate and Clerk of Parliaments. This relationship of trust is precious and I think that it would be enhanced if we could play a part in the selection of our Clerk.

[*Translation*]

Motion No. 328 proposes to call on the Governor-in-Council to appoint the Clerk of the Senate in accordance with the express recommendation of the Senate. Passing it would signify to the government that our chamber wants to be formally included in the appointment process, but without amending the law defining the framework of the process. The appointment of the Clerk of the Senate is made under the Public Service Employment Act, which provides that the appointment is made by the Governor-in-Council.

The government can ask for the advice of the leaders of the various groups in the Senate as well as the advice of the Speaker, in order to guide its choice, but the government has no legal obligation to consult. In addition, even if the government wanted to give the Senate a say in the appointment, we do not have a process in place right now to make the "express recommendation" called for in Motion No. 328, a principle I agree with. Colleagues, the Senate must be rigorous and credible in its process to put an end to the anachronistic situation we face.

My proposed amendment calls on the Committee on Internal Economy, Budgets and Administration to consider how the Senate should submit to the Governor-in-Council its recommendation on the nomination of the Clerk of the Senate. The Committee on Internal Economy is in the best position to examine this administrative issue, and the committee members could look at different options.

I would point out that the Clerk of the House of Commons is also appointed by the Governor-in-Council, pursuant to the Public Service Employment Act. In 2001, the other place adopted a process to consider the nomination of its clerk and enshrined this process in its Standing Orders. The government submits a certificate of nomination for the proposed candidate to the appropriate standing committee for review. This committee then reports to the House of Commons for ratification, and then the Governor-in-Council proceeds with the appointment.

Obviously, the government is not legally required to follow this recommendation, but it voluntarily complies because it recognizes the legitimacy and quality of the process. Should we emulate the other place or develop our own process? For example, when the position is vacant, the Senate could give the Governor-in-Council a list of candidates prepared by an appropriate committee. A special committee made up of representatives from each group in the Senate and the Speaker could also submit one or more candidates to the Senate, which would make its recommendation through a motion.

I am confident that the Committee on Internal Economy would propose a very good process. I therefore move that this amendment, which perfectly complements Senator Housakos's motion, be adopted, since it would constitute a step towards greater Senate autonomy.

MOTION IN AMENDMENT

Hon. Raymonde Saint-Germain: Therefore, honourable senators, in amendment, I move:

> That the motion be not now adopted, but that it be amended by adding the following before the period:
>
> "; and
>
> That it be an instruction to the Standing Committee on Internal Economy, Budgets and Administration that it consider and recommend to the Senate, no later than the fifteenth day the Senate sits after the adoption of this motion, a process by which the Senate could submit to the Governor in Council its recommendation on the nomination of a person or list of persons with the skills and capacities required for the position of Clerk of the Senate and Clerk of the Parliaments".

Thank you.

The Hon. the Speaker: In amendment, it was moved by the Honourable Senator Saint-Germain, seconded by the Honourable Senator Housakos, that the motion be not now adopted — shall I dispense?

An Hon. Senator: Dispense.

The Hon. the Speaker: Are senators ready for the question?

Hon. Senators: Yes.

The Hon. the Speaker: Do you have a question, Senator Day?

Hon. Joseph A. Day (Leader of the Senate Liberals): I move adjournment of the debate in my name.

(On motion of Senator Day, debate adjourned.)

[*English*]

CRISIS IN CHURCHILL, MANITOBA

INQUIRY—DEBATE CONTINUED

On the Order:

> Resuming debate on the inquiry of the Honourable Senator Bovey, calling the attention of the Senate to the crisis in Churchill, Manitoba.

Hon. Marilou McPhedran: Honourable senators, this inquiry stands adjourned in the name of the Honourable Senator Mercer. I ask for leave that it remain adjourned in his name after my intervention this evening.

The Hon. the Speaker: Is it agreed, honourable senators?

Hon. Senators: Agreed.

Senator McPhedran: Honourable senators, today I rise to speak in support of Senator Bovey and Inquiry No. 28 to address the need for a rail line in Churchill.

[*Translation*]

I am confident that this crisis is nearing its end and that northern communities, including Churchill, are on the right track to address their needs.

[*English*]

As you may know, a tentative deal has been reached to bring ownership of the rail line to Churchill. Two groups from northern Manitoba, One North and Missinippi Rail LP, joined forces with Fairfax Financial Holdings in Toronto. There is now an agreement in principle to buy assets from Omnitrax, the American company that previously owned the rail line.

• (2300)

Thirty-one First Nations and 11 non-First Nations communities have actively participated in this arrangement. Northern communities, including First Nations, are now on their way to exercising control over an integral part of their lives. Most important, they are now on their way to exercising control over their futures and the futures of generations to come. As the Honourable Jim Carr said in an interview with CBC *Information Radio*, this is a "perfect partnership that blends local community, international understanding of trading commodities and the production of those commodities themselves."

This is an important example of self-determination from our Northern Indigenous communities. When the government could not step in, these communities took proactive steps to secure their own future. In fact, Opaskwayak Cree Nation Chief Christian Sinclair has spoken of his determination to have the rail line running before winter of this year and to developing long-term investments for growth.

Truly this is a hopeful example of the progress that can happen when Indigenous communities exercise autonomy over the decisions that impact their lives. Our Indigenous and Northern communities are resourceful, resilient and tenacious. Going forward, I am confident that Canadians will continue to see actions that reflect the full scope and capacity of our strong Indigenous and Northern peoples to the benefit of us all. Thank you. *Meegwetch*.

(On motion of Senator Mercer, debate adjourned.)

NATIONAL FINANCE

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON THE STUDY OF THE DESIGN AND DELIVERY OF THE FEDERAL GOVERNMENT'S MULTI-BILLION DOLLAR INFRASTRUCTURE FUNDING PROGRAM

Hon. Percy Mockler, pursuant to notice of May 24, 2018, moved:

> That, notwithstanding the orders of the Senate adopted on Tuesday, February 23, 2016, and on Thursday, November 17, 2016, the date for the final report of the Standing Senate Committee on National Finance in relation to its study on the design and delivery of the federal government's multi-billion infrastructure program be extended from June 30, 2018 to December 31, 2019.

He said: Honourable senators, without any debate, I move the motion standing in my name.

The Hon. the Speaker: Are senators ready for the question?

Hon. Senators: Question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

BANKING, TRADE AND COMMERCE

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES PERTAINING TO THE MANAGEMENT OF SYSTEMIC RISK IN THE FINANCIAL SYSTEM, DOMESTICALLY AND INTERNATIONALLY

Hon. Douglas Black, pursuant to notice of May 29, 2018, moved:

> That, notwithstanding the order of the Senate adopted on October 17, 2017, the date for the final report of the Standing Senate Committee on Banking, Trade and Commerce in relation to its study on issues pertaining to the management of systemic risk in the financial system, domestically and internationally, be extended from June 29, 2018 to December 28, 2018.

He said: Similarly, Your Honour, without further ado, I move the motion standing in my name.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY OF ISSUES AND CONCERNS PERTAINING TO CYBER SECURITY AND CYBER FRAUD

Hon. Douglas Black, pursuant to notice of May 29, 2018, moved:

> That, notwithstanding the order of the Senate adopted on October 17, 2017, the date for the final report of the Standing Senate Committee on Banking, Trade and Commerce in relation to its study on issues and concerns pertaining to cyber security and cyber fraud be extended from June 29, 2018 to November 30, 2018.

He said: Similarly, I move the motion standing in my name.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

ABORIGINAL PEOPLES

COMMITTEE AUTHORIZED TO MEET DURING SITTING OF THE SENATE

Hon. Lillian Eva Dyck, pursuant to notice of earlier this day, moved:

> That the Standing Senate Committee on Aboriginal Peoples have the power to meet on Wednesday, June 6, 2018, at 6:45 p.m., even though the Senate may then be sitting, and that rule 12-18(1) be suspended in relation thereto.

She said: Thank you. Similarly, I move the adoption of the motion in my name without debate.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

CONSTITUTIONALITY OF THE CANADA SUMMER JOBS ATTESTATION

INQUIRY—DEBATE ADJOURNED

Hon. Pamela Wallin rose pursuant to notice of May 23, 2018:

> That she will call the attention of the Senate to the constitutionality of the Canada Summer Jobs attestation, which was implemented by the Government of Canada for the 2018 program.

She said: I won't be quite as short as some of my colleagues here, but I promise I won't keep you much longer.

Honourable senators, I rise to discuss this inquiry, which is focused on the constitutionality of the Canada Summer Jobs attestation, an issue I've raised in this chamber several times.

Senator Harder, I'm so glad you're here, because I know you are very familiar with my questions. Perhaps you can chime in about whether a Charter test was ever rendered and whether there's an obligation on the part of government to present evidence that their policy to ensure some Charter rights will not deny the Charter rights of others.

The Summer Jobs attestation was introduced by the current government for the 2018 program. It appeared to come out of nowhere. It required employers to check a box indicating that both the job and the organization's core mandate respects individual human rights in Canada as defined by the government, including the values underlying the Charter of Rights and Freedoms and other rights, including reproductive rights.

The check box was almost immediately met with opposition from various groups, most notably faith-based groups. They argued that signing it meant they were forgoing their constitutional rights to freedom of belief, speech, expression and religion. Over 1,500 applications were denied by the government for their refusal to sign the attestation. I'm sure many others with genuine concerns were very reluctantly signed.

The minister later clarified the new rule, stating that core mandate only referred to the primary activities and respect meant that the activities were not seeking to remove or actively undermine these existing rights, again raising questions about how summer camp activities undermine the Charter of Rights and Freedoms.

There is now a Federal Court challenge arguing that the government has acted in bad faith. The BC Civil Liberties Association, self-described as "resolutely pro-choice," has joined the case against the government. I too am "resolutely pro-choice," but to me that means people have a choice, including the right to disagree with me.

At the core of this issue is whether the attestation is constitutional when it asks people to respect the rights of others but forfeit their own. The Charter's intent is meant to balance competing rights. It's also meant to protect the public from overreaching governments.

On April 25, the Prime Minister stood in Question Period in the other place and defended funding activist anti-pipeline organizations, saying his government defends freedom of speech and expression, but he offered no such defence for faith-based organizations. The government is fully within its right to hold the belief that access to abortion is a human right, but others have a right to disagree.

The Charter ensures the rights of Canadians are respected, not only the rights of the government of the day. So for the government to impose its beliefs on Canadians through access or lack of it to a publicly funded program is certainly unfair and quite possibly unconstitutional.

While no one is automatically entitled to public funds, the state has, in this case, offered funds to the public. The Charter therefore requires the state to make that offer in a manner that is open, fair and respects the fundamental freedoms of all Canadians. People are allowed to march on Parliament Hill as pro-lifers or pro-choicers. They're also allowed to hold those beliefs when they apply for public funds to help a kid earn a few dollars during the summer.

Has the government received the advice that these actions are constitutional? In this chamber on May 22, Minister Hajdu stated in response to my honourable colleague Senator Joyal:

> I appreciate the question and the irony in asking for a Charter analysis on upholding the Charter . . . .

The minister ought to reflect on that comment.

If the Charter's intent is to provide a mechanism to balance competing rights, that was also highlighted by Liberal member of Parliament, John McKay. In a letter, he stated:

> It is my view that the current government has inadvertently fallen into the trap of preferencing one right over another and of using the Charter to protect itself from perceived abuse by citizens.

It is the "preferencing one right over another" part of Mr. McKay's words that I find compelling, because it seems the government is doing just that.

The Summer Jobs attestation specifically mentions reproductive rights as one of the rights that should be respected should applicants wish to receive funding.

• (2310)

The government, in laying this out, is actually picking a fight with faith-based groups, yet controversial organizations such as Dogwood Initiative, LeadNow and Tides are getting public funds from the summer jobs program.

Senators, I truly believe that the government has a double standard here, treating faith-based groups unfairly, possibly unconstitutionally, while supporting groups that share an environmental or political agenda.

This attestation was not the right way to go. It caught unknowing groups in the crosshairs of a poorly executed plan that should have been presented and debated before being implemented. The government should have looked at the potential implications of imposing its particular values, beliefs and priorities on Canadians through the process of withholding or granting public funds.

The government needs to remove the attestation for next year and find another constitutionally certain way to deal with what they have identified as a political problem. In the meantime, over 1,500 kids in this country have lost out on the experience of a great summer job.

Thank you. Senator Joyal has asked that debate be adjourned in his name, if I'm allowed to do that.

(On motion of Senator Day, for Senator Joyal, debate adjourned.)

(At 11:11 p.m., the Senate was continued until tomorrow at 2 p.m.)

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